A HISTORY OF FACTORY LEGISLATION IN INDIA

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PREFACE

The first chapter of this book and portions of the last chapter have already been published in the Calcutta Review, to the proprietors of which I am accordingly indebted for permission to republish.

I wish to take this opportunity of acknowledging the assistance I received in the reading of proof-sheets from my wife, and from my colleague in the Scottish Churches College, Mr. Bhanoo Bhusan Das Gupta.

July, 1920 J. C. KYDD

MACHINERY AND LABOR

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CHAPTER I

THE FIRST INDIAN FACTORY ACT

Although as early as 1784 attention was directed to the conditions and terms of employment of factory labour in the United Kingdom, it was not till 1802 that the first Bill dealing with the subject—"The Health and Morals of Apprentices Bill"—was introduced into Parliament, and it was passed without difficulty largely because it was regarded more as poor law than as factory legislation, as it dealt with the employment of pauper children.[1] By 1819, however, when the second Factory Act was passed opposition was keen, but, during the succeeding years agitation, fostered by such philanthropists as Michael Sadler and Lord Ashley, afterwards Earl of Shaftesbury, for the extension of the Government control led to a series of Acts. These Acts, being the result of a gradual development, did not deal with industry as a whole. The position was regularised by the Consolidating Act of 1878.

After the first and most important encounters in the battle of the Factory Acts had been fought in the United Kingdom it was, perhaps, but natural that attention should be drawn to the need of India, as its manufacturing industry made signs of rapid development. Although Bengal must be credited with the first cotton mill—opened about the year 1818—it was not till the second half of the 19th century that the introduction of power

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[1] The Health and Morals of Apprentices Act, 42 Geo. III, p. 73.

spinning and weaving made any progress. In Bombay the first mill was established in 1851. By 1879-80 (the first year for which complete authentic official records are available), there were 58 cotton spinning and weaving mills in India with an aggregate of 13,307 looms and 1,470,830 spindles, and a daily average employment of 39,537 persons. Meantime the other great textile industry of jute manufacture had also been making rapid advances in Bengal. The first jute mill was started in 1855, the first power loom being introduced in 1859. Though at first progress was slow, by the year 1879-80, 22 jute mills existed in India with 4,946 looms and 70,840 spindles, and employing an average of 27,494 persons daily. It was the growth of the cotton industry in Bombay, however, which at first chiefly attracted attention.

The period of this early industrial expansion in India was a time in the United Kingdom when interest in the whole question of factory legislation was considerable. In the early part of 1873 Dr. Bridges and Mr. Holmes conducted an enquiry at the instance of the Local Government Board into the health of women, children and young persons engaged in textile manufacture. The last Act dealing with this matter was that of 1847 and they recommended a review of the situation, considering 10½ hours of "monotonous, unceasing labour," even under favourable conditions, as too long to be consistent with the health of young persons between 13 and 18 years of age and of women generally. They urged, in consequence, a reduction of the working week from 60 to 54 hours. The authors of "A History of Factory Legislation" in reference to the work of this Commission point out:[1] "Increased sympathy with industrial conditions is undoubtedly a sign of the times, whether we regard it

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[1] "A History of Factory Legislation"—Hutchins and Harrison, p. 174.

as indicating a higher moral tone or a tendency to slackness and effeminacy, and it is interesting to note that these Commissioners went so far as to consider the point of the extreme monotony of factory work." In 1874, under the Conservative Government which came into power in that year was passed the Act thus entitled—"An Act to make Better Provision for Improving the Health of Women, Young Persons, and Children employed in Manufactures, and the Education of such Children, and otherwise to improve the Factory Acts."[1] As we have noticed the Factory Acts did not deal with industry as a whole. Legislation had been gradually extending from industry to industry and as a result certain elements of inequality and unnecessary complexity existed in the body of the Factory Laws. In consequence of the realisation of this in 1876 a Commission was appointed to consider the consolidation of these factory and workshop laws. The result was the Act of 1878, referred to above. This Act stood till 1901 when the Factory and Workshop Consolidation Act was passed.[2]

During this time of interest in factory legislation Mr. Redgrave, H. M. Inspector of Factories, had drawn attention in one of his reports to the industrial situation in India. "We see," he wrote, "a cotton industry springing up in India, extending with rapid strides, and it behoves us to enquire whether that industry is carried on upon the old lines of the cotton manufacture here, and if it is so carried on, as is the common report, by factories working fourteen hours a day, it is well that the Legislature should step in while the industry is, so to speak, in its infancy and by wise and moderate regulations stop the growth of habits of long hours and of the employment of child labour." After quoting statistics showing the

[1] 37 and 38 Vict., c. 44.

[2] Edw. VII, c. 22.

progress of the industry he continued, "It is clear that this is a progressive industry and looking to what factory legislation has achieved in this country, may we not hope that the native workers of India may be spared the ordeal which our cotton operators went through in former days and that they may be permitted to enjoy the blessings of moderate labour, of ample time for rest and meals and of protection to children of tender years."

As early as April, 1874, the attention of the Secretary of State for India was directed by a question asked in the House of Commons to the dangers which might arise from the ill-treatment of little children in the growing cotton industry of India. In the same month the Secretary of State pointed out to the Government of Bombay the need of enquiry and probably of legislation. Nothing, however, was done till another question in the House of Commons led the Secretary of State to direct the Government of Bombay to undertake an enquiry.[1] On 23rd March, 1875, this Government appointed a Commission on the following terms:—

[1] In the House of Commons on 8th February, 1875, Mr. Anderson asked the Under-Secretary of State for India, 'If he is aware that an extensive Factory system is growing up in India without any Government supervision for the protection and health of the women and children employed; whether his attention has been drawn to statements that these women and children are systematically worked for 16 hours a day, and in many cases even including Sundays; and whether the Indian Government will adopt some such Factory Legislation as we have in this country for the prevention of such evils, before they attain greater proportions?'

Lord George Hamilton replied, 'The Secretary of State for India is fully aware of the increase of the Factory system, mainly confined to the Presidency of Bombay and in a recent speech at Manchester he alluded at some length to this increase. Major Moore, the Inspector in Chief of the Cotton Department in Bombay stated in his last Report that a large number of women and children were employed in the mills near Bombay, and that the hours of labour were long, not being at present limited by Government. He suggested that legislation would speedily be required. The Secretary of State in a despatch, dated the 30th of April, 1874, commended the subject to the best attention of the Government of Bombay. Recently the Secretary of State has received from an unofficial source strong representations of the evil result of the system alleged to be in force in Bombay and the subject is now engaging his careful attention.'

"His Excellency the Governor in Council is pleased to appoint the following gentlemen to be a Commission to enquire into, and report on, the present condition and system of work in the factories in Bombay and its vicinity, with a view to determining whether any legislation is necessary for the regulation of the hours of labour, especially in the case of women, young persons, and children, for the protection of labourers against accidents, for the proper ventilation and sanitation of the factories, and generally for improving the condition of the work-people employed." Hereafter follow the names of Mr. F. F. Arbuthnot, Collector of Bombay, the President of the Commission, and of the eight other members of the Commission.[1] Of these eight members six had close connection with firms engaged in the cotton industry. One was a Vakil of the High Court, the remaining member a Doctor. The Commission held ten meetings between 14th April and 16th June, 1875, and on 2nd July it submitted its report to the Government of Bombay.

It is interesting to note that while the report of this Commission was still under consideration the Earl of Shaftesbury gave public evidence of his interest in the question of factory legislation for India by raising the subject in the House of Lords on 30th July, 1875. Inspired by Mr. Redgrave's report and by what he had read in an article in the Journal of the National Indian Association [2] the noble Lord pressed the case for

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[1] Bombay Factory Commission, 1875. President, F. F. Arbuthnot, Esq.; Members, The Honourable Mr. J. K. Bythell, The Honourable Rao Sahib Vishvanath Narayan Mandlik, Sir Mungnldass Nathoobhoy, C.S.I., Hamilton Maxwell, Esq., G. A. Kittredge, Esq., Thomas Blaney, Esq., Morarjee Goculdass, Esq, and Dinshaw Manookjee Petit, Esq.; Secretary, Mr. Moylan, Inspector of Steam Boilers.

[2] The reference is to an article which appeared in July, 1875, in which satisfaction is expressed at the appointment of a Factory Commission in Bombay and in which attention is drawn to part of the evidence reported in the Indian press. This article must have been written when the work of the Commission was drawing to a close and we know that the debate in the House of Lords actually took place

legislation. Naturally those interested in the textile mills of Lancashire began now to take great interest in this question and they became eager for what some certainly regarded as an equalisation of the conditions of competition. It was but natural, then, that at this stage, as at future stages in the history of factory legislation in India, the attitude of Lancashire should cause a certain body of opposition in India to crystallise round the belief that the new restriction and hampering of industry in India—as it was held to be—was being dictated by a jealous rival in trade. In view of this belief it is interesting to note one section of the Earl of Shaftesbury's speech ;—

"There is also a commercial view to this question. We must bear in mind that India has the raw material and cheap labour; and if we allow the manufacturers there to work their operatives 16 or 17 hours and put them under no restrictions, we are giving them a very unfair advantage over the manufacturers of our own country, and we might be undersold, even in Manchester itself, by manufactured goods imported from the East."

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after their report was presented though the protagonists in the debate do not seem to have been aware of that. But this was not the first occasion on which the National Indian Association had drawn attention to the need of Factory Legislation in India, for at its annual meeting at Bristol on December 17th, 1874, Miss Carpenter moved the following resolution:—'That this meeting desires to urge on the attention of Government the importance of immediate legislation for the establishment in India of Reformatory and Industrial Schools for juvenile offenders; and of a half-time Factory Act to secure the education and protection of children employed in factories; and of industrial training in connection with the education of the masses.'

That Miss Carpenter's influence was important in revealing the need for Factory Legislation in India to British Statesmen is clear, for at this meeting in 1874 she declared that Lord Shaftesbury had promised to do all in his power to effect the purpose of her resolution. The Marquess of Salisbury, the Secretary of State for India, also publicly acknowledged his debt to Miss Carpenter in this matter.

The National Indian Association was founded in the United Kingdom in 1870 and one of its main objects was to extend a knowledge of India and interest in her throughout the country. Miss Mary Carpenter was a leading spirit in the Association and was, till the time of her death, the Secretary of it.

This point was, however, very neatly turned by the Marquess of Salisbury, the Secretary of State for India, in his reply. While he was at one with the Earl of Shaftesbury in agreeing that the matter required urgent attention, he could not agree that Indian opinion was altogether with them. He said: "There may be some persons who see the thing in the light in which we see it; but generally this proposal to limit the hours of factory labour is looked upon as a great conspiracy for the purpose of promoting the interests of Manchester manufacturers. There is no subject more commonly discussed, and writers in the native journals dwell on the wickedness of the English who are trying to stifle native manufactures in India under the guise of philanthropy. I am, therefore, glad that my noble friend is coming forward in this matter, for his philanthropy is, at all events, above suspicion; he cannot be suspected of joining in the dark conspiracy and trying to stifle the infant manufactories of India in the interests of Manchester. I hope that his well-known efforts on behalf of the factory operatives of his own country will show that he is actuated by none but philanthropic motives in desiring that the Government shall take the same measures for the protection of the women and children, the factory operatives of India."

The Bombay Factory Commission, while making a general enquiry into the work of Factories, devoted particular attention to the following subjects:—1. Dangers from machinery and necessity of its protection. 2. Age of children employed. 3. Hours of work. 4. Holidays. 5. Sanitation. 6. Ventilation. 7. Education. 8. Necessity of legislation.

The results of the enquiries of the Commission under these heads are thus summarised.[1]

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1. Report of the Bombay Factory Commission, 1875, p. 2.

1. As a rule all the machinery is protected, but some portions may not be sufficiently protected. All the witnesses concur that protection of the machinery is both necessary and desirable.

2. Eight years appears to be the general age given as that of the youngest children employed in the mills, but some witnesses have stated their age to be as young as five or six years.

3. The hours of work are stated to be from sunrise to sunset, with half an hour for rest in the middle of the day. In the longest days of the year this would give about thirteen hours of work a day, including the half hour rest. In the shortest days it would give about eleven hours. The children appear to be on the premises all the time alternately working and resting.

4. There are no fixed number of holidays for any Factory during the year. One closes every Sunday in the year, others every other Sunday, and others one Sunday in the month. In addition native holidays are given. On an average the Factories work from 300 to 320 days in the year from sunrise to sunset.

5. The health of the operatives is stated to be good and it is also stated they do not suffer from the long hours, except in some of the Cotton Press Factories, where for three months in the year the work is exceptionally heavy and trying. All the Factories appear to be well supplied with water, which is given freely to the operatives.

6. The ventilation in some Factories is better than in others and the Commission is of opinion that it has not received the attention it deserves from many of the owners.

7. Gratuitous schooling is given in a small way in two of the Factories, but in none of the others.

8. On the question of the necessity of legislation the witnesses are divided, but, on the whole, they may be

considered as giving their evidence in favour of a simple and plain enactment dealing fairly with the subject and not entering into too much detail.

None the less only two of the members of the Commission were in favour of some simple legislative enactment. This, they felt, would be beneficial both to Factory operatives and owners. They were of opinion, further, that any Act should be made applicable to the whole of British India. Section 9 of the report of the Commission which really stands as the opinion of this minority indicates the points to be noted and provided for in any Act :—

(1) That the machinery should be protected.

(2) That children should not be employed under eight years of age.

(3) That children from eight to fourteen years should not work more than eight hours daily.

(4) That hours of labour should not exceed twelve hours a day, which should include one hour of rest, which could be given either at one time, or at different times during the day, as found to be most convenient.

(5) That all factories should be closed one day in seven, the day of closing being left to be fixed as the owners and operatives may wish. Other holidays in the year may be given at the option of the owners and operatives.

6. That good drinking water should be provided in every factory.

In a point of caution the Commission were unanimous in their opinion "that any Imperial Act that may be passed should not interfere more than is absolutely necessary with the working of factories, for these must be considered as highly important, both politically and financially, and of great benefit to the country generally,

and they require encouragement of every description."[1] The investigations of this Factory Commission had been largely confined to the city of Bombay itself. The Government of Bombay accordingly regarding it as desirable that information should be obtained with regard to other factories in the Presidency, sent the following letter to the Collctors of Surat and Broach (No. 2789 of 1875—General Department):—

Bombay Castle 14th Sept., 1875.

SIRS,

With reference to the Report of the Bombay Factory Commission, copies of whose proceedings are herewith forwarded, Government are desirous of obtaining some similar information regarding the Steam Ginning Factories in your Collectorate. I am, therefore, directed to request that you will obtain and submit some information on the following points:—

Designs for machinery, whether or not it is sufficiently protected.

Age of children employed.

Hours of work.

Sanitary arrangements of the factories.

Ventilation of the factories.

Education of children employed.

Holidays.

For this purpose it would be desirable that you should examine some of the managers of the factories, a few of the work-people employed, any other persons who, you may think, can give information, and the Civil Surgeon, Dispensary Assistant, or other medical officer who may attend the work-people in case of accident and disease.

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[1] Report of Bombay Factory Commission, 1875, p. 3, s. 10.

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You will understand that it is not needful for you to make an examination regarding all the factories in your Collectorate. It will be enough to take two or three as representative.

You should with your proceedings submit your own opinion. There will be no objection to your employing one of your assistants or deputies in whom you have confidence to aid you in this duty.

I have the honour to be,
SIRS,
Your most obedient servant,
W. G. PEDDER,
Acting Secretary to Government.

Mr. J. G. White, the Collector of Broach, replied to this letter in a brief report (letter 2398 of 1875).[1]

To

THE ACTING UNDER-SECRETARY TO GOVERNMENT,
GENERAL DEPARTMENT,

Broach, 20th October, 1875.

SIR,

With reference to your letter of the 14th ultimo, I have the honour to submit herewith the evidence in full of eight witnesses on the points in regard to which Government desired information. I also beg to submit a summary of the evidence of each witness prepared by my District Deputy, Mr. Chunilal Venilal.

2. From the evidence in question it will be seen that in the opinion of the witnesses *generally*—

1st. The machinery of factories is sufficiently protected.

[1] P. 2 of Report of Collectors of Surat and Broach, 1875.

2nd. That children are employed too young, particularly in ginning factories. One witness thought they might be employed as young as ten, but the others specified twelve and fifteen years as the lowest age at which they should be employed. As respects spinning mills, Mr. Cotton, who owns and manages one, considers that children should not be employed under ten.

3rd. That the hours of work are too long, but the witnesses differ greatly as to what number of hours children should work.

4th and 5th. That the sanitary arrangements and ventilation of the factories and mills are good, and the health of the operatives also good.

6th. That children are not educated.

7th. Sunday is for the most part observed as a holiday. The principal native holidays are also observed; but in one of the five cases inquired into, Sunday is not observed.

3. On the question whether a Factory Act is required all but one witness (Mr. Robb) are unanimous in considering it unnecessary but (with the exception of Mr. Cotton) assign no clear reasons for their opinion. Mr. Cotton would not object to an Act if it were to deal merely with the age of children and the number of hours they should be employed. Mr. Robb considers an Act highly necessary for ginning factories because some factories work for 20 out of 24 hours, Sundays and week days. He recommends that no work should be allowed at factories on Sundays except necessary repairs.

I have the honour to be,

SIR,

Your most obedient servant,

J. G. WHITE,

Collector.

In Surat the enquiry was entrusted by Mr. W. R. Pratt, the Acting Collector, to Mr. M. C. Entee, District Deputy Collector, and his report was submitted to the Secretary to Government, General Department, Bombay, on 20th November, 1875. In Mr. Entee's report it is pointed out that opinion on the part of witnesses with regard to the need for legislation was about equally divided. Sections 6, 7 and 8 of his Report are as follows :—[1]

6. My own opinion is in favour of a legislative enactment for the regulation of the hours of business only. No children are employed in the District below the age of 8. .... Holidays are given in sufficient number. Sanitation and ventilation is generally provided for, and even in cases in which they require any improvement, I think a mere suggestion would lead the owners, who are an intelligent body, to attend to it. As for education, it would be a strange anomaly to insist upon it at the expense of the proprietors of the factories. If the parents had through ambitious motives neglected the education of their children by making them the source of profit at an early age, it might have been necessary, perhaps, to check such an abuse of parental authority; but such is far from being the actual state of the case. These children would have been brought up in an equally, if not more, ignorant condition, if the factories had not existed: and certainly in much more indolent habits. People far above them in social position have yet to learn the benefits of education and no legislative enactment is considered necessary for them. As a measure of benevolence it is to be highly commended, no doubt: but legislation is not generally admitted to be an appropriate means for the

[1] P. 30 of Report of the Collectors of Surat and Broach, 1875.

compulsory adoption of benevolent profits. And as for schooling as a means of recreation, there may possibly be a difference of opinion. As to protection of machinery, all permanent establishments are sufficiently protected.

7. For the regulation of the hours of work, a strong case is made out. Both the workmen and the proprietors must naturally be averse to legislation on this point, as it is calculated materially to affect the profits of the one and the wages of the other. It is this very strong self-interest that requires to be checked by coercive measures, as it is sufficiently powerful to maintain itself against all moral opposition. ....

8. A simple Act like the one proposed would certainly not bring labourers and employés in such 'direct contact with Government and its officers' as to cause them any 'annoyance.' I quite agree with Mr. Manguldass and the other members of the Commission, who deprecate legislation on the subject, on the advisability of giving all possible encouragement to this important branch of industry, so as to promote its 'steady and healthy growth'; but nothing can be more detrimental to a healthy growth than a vitiated excitement tending to the dissipation of that very strength and capacity so necessary for its proper sustenance and support. And if, as in the opinion of the Honourable Mr. Mandlik, sanitation and education for infants require legislation, the preservation of the physical energy and the duration of the life of a most important and productive element of the community certainly demand it, and in a more powerful way.

The results of India's first Factory Commission can hardly be said to have been singularly conclusive. But the results are but a reflex of the variation in the evidence. There was undoubtedly quite a strong feeling

that legislation might be instrumental in checking the progress of an industry which was growing rapidly. Perhaps it is also true that the enquiry revealed a condition of things much more satisfactory than might have been anticipated by any one who relied solely on information supplied in the rather alarming statements which found a certain circulation prior to this date. Nevertheless in this enquiry, and in the supplementary enquiries conducted in the Collectorates of Surat and of Broach, sufficient evidence was adduced to make clear that with the growth of industry in India regulation was becoming necessary. In this matter India inherited the experience of the United Kingdom and it was now her time to follow the lead which had been given.

Following on the report of the Bombay Commission the question of the need for factory legislation was much discussed. It came to a head when, on 7th November, 1879, a Factories Bill was introduced in the Council of the Governor-General of India. It was indicated that the Government had come to the conclusion that the legislation to be undertaken should be restricted to the following points :—

1. The determination of the age at which children may be employed.

2. The limitation of the hours of labour for children and young persons.

3. The prohibition of the employment of children and young persons in certain dangerous work.

4. The fencing of dangerous machinery.

5. The reporting of accidents.

6. The appointment of Government Inspectors.

"The present Bill," runs the "Statement of Objects and Reasons," referring to the points just noted, "has been prepared on these lines and will apply only to those parts of British India to which it may be extended by

the Local Governments with the previous sanction of the Governor-General in Council."[1]

This Factories Bill was introduced in the Council of the Governor-General by the Hon'ble Mr. Colvin, who moved that it be referred to a Select Committee for further consideration. This action was suggested and adopted because it was felt that on certain points fuller information was required. It can be seen, for one thing, from the clause of the statement of reasons quoted above that the original intention was to make the Act permissive in nature. Local Governments were to be left to take action upon it. In fact, the only point that was directly applicable to the whole of British India was that "This Act may be called 'The Factories Act, 1880.'" As we shall see, the Act, as finally passed, was a positive enactment for the whole of British India.

The definition of "Factory" in the Draft Bill was inadequate, and sufficient consideration had not been given to the determination of the age below which persons should be defined as children and young persons, and of the age under which the employment of children should be prohibited. It was accordingly decided to circularise Local Governments with regard to their opinions on these questions and to appoint the Select Committee. In closing the discussion in the Council Mr. Colvin emphasised what he regarded as the two main purposes of such legislation as they might undertake—

1. That of affording security of life and limb from accident.

2. That of protecting children and young persons, who had not attained to an age at which they would be considered free agents, from being overworked.

The references made by the Government of India to the Local Governments, and the independent enquiries

[1] Gazette of India, 1879, Part V, p. 946.

of the Select Committee appointed by the Council, opened up the question of legislation once more. The Select Committee took its work in hand at once and at the session of the Council of the Governor-General on 2nd March, 1880, it presented its Report along with the Draft Bill embodying the amendments and alteration they suggested.[1] One important change was with regard to the general nature of the Bill. Formerly it was of a permissive character. The amendment made it applicable throughout British India. In Bombay especially, it was felt that a permissive Act would be in a sense unfair, and a considerable amount of feeling was raised against the original Draft Bill. The Bombay Mill-owners' Association thus expressed their support of the amendment: "The Bill as originally proposed would have been a grave injustice to the Bombay factories which would have been placed under a serious, if not ruinous, disability in their competition with other places in India, into which it was apparently the intention of the Local Governments not to introduce the proposed law. The views of the Select Committee of the Council of the Governor-General therefore, on this point, have the entire approval of the Association." Other bodies argued similarly [2] and a strong case was made out for a positive enactment. The Hon'ble Maharajah Jotindra Mohan Tagore, a member of the Select Committee, voiced the feelings of a minority in objecting to the alteration, when, in the

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[1] Gazette of India, Part V, 1880, p. 127 et seq.

[2] For example, the Poona Sarvajanik Sabha was very explicit in its argument against the permissive Bill—

'Such permissive enactments of measures by the Imperial Legislature are always fraught with great disadvantages. The measure, if necessary in principle, must be made obligatory upon all provinces of India. The adoption of the other course leaves the responsibility of introducing such measures upon the local executive authorities, which responsibility ought not to be laid upon them; and what is worse, it burdens particular provinces by placing them at a relative disadvantage to the other provinces of the Empire............The necessity of protecting children from overwork is, if real, universal, and should be recognised and legislated upon as such. Even as it is, the

debate on the Report, he urged that any intervention between labour and capital, in a country, where manufacturing industry was in its infancy, was not at all desirable.

The Bill, as presented by the Select Committee, gave a more adequate definition of a factory and provided for the extension of its terms to factories belonging to the Crown. The original Bill made a distinction between children (*i.e.*, under 12 years of age), and "young persons" (*i.e.*, persons between the ages of 12 and 16). The former were not to be employed more than 6 hours, the latter not more than 8 hours a day. The Select Committee, as a result of enquiry and deliberation, abolished this distinction, and the Bill brought forward by it dealt with one class—*viz.*, children or persons under the age of 14 years. The minimum age of employment was to be 8 years and the maximum daily employment for such children 9 hours. The Bill required that they should have four holidays in the month. Further points of amendment referred to the rules for fencing machinery, which were brought more into conformity with the English law, and the empowering of Local Governments to require the occupier of a factory to keep up, for the information of the Inspector, registers of the children employed in such a factory.

When the Bill and the report were brought before the Council of the Governor-General on 9th April, 1881, they were favourably received, but certain amendments proposed were embodied in the Act as finally passed. In the definition of a factory, an addition was made whereby indigo factories and factories on tea or coffee plantations, were

law will not affect mills established in the Native States of Hyderabad, Indore, Bhavnagar and other places, and will thus favour these mills at the expense of those in British territory. To increase the partial character of the enactment advisedly by making it possible to apply measures to Bombay and not to Madras or Bengal will still further aggravate this injustice. In the general interests of the country we submit the permissive character of the enactment must be expunged and the measure made universally applicable to all provinces.'

exempted from the provisions of the Act. Exception was taken to the appointment of special officers as Inspectors, and, on the motion of the Lieutenant-Governor of Bengal, Section 3 of the Bill was amended so as to leave the appointment of such special officers at the discretion of the Local Government. The rule was, of course, that where no such special officer was appointed, the Magistrate of the district should, in virtue of his office, be Inspector. The most important amendment was with regard to the age at which children might be employed. As we have seen, the Select Committee decided to fix the minimum age of employment at 8 years, and the maximum age of employment at 14 years. This was amended by the Council, so that in the Act the minimum age was 7 years and the maximum 12 years. It is interesting to anticipate the further development in factory legislation by noting that the Act of 1881, as amended by the Indian Factories Act of 1891,[1] revised these ages once more so that the minimum stood at 9 years, the maximum at 14 years. No change in this respect was made by the Indian Factories Act of 1911.[2] This amendment to the Bill was accepted by the Government of India with some diffidence, and in the letter in which the Hon'ble Mr. Grant, Officiating Secretary to the Government of India, circularised Local Governments in May, 1881, drawing their attention to the Factories Act, he stated :—

"It must be borne in mind that although many Factories are managed on enlightened and liberal principles, yet the enquiries of the Bombay Commission of 1875 did undoubtedly disclose the existence in many places of grave defects in factory management ; and it was to prevent the possibility of such abuses that the present law

[1] Act XI of 1891. *Cf.* Appendix.
[2] Act XII of 1911. *Cf.* Appendix.

was enacted. In consideration of the important interests involved and in deference to the opinions of many of the Local Governments and public bodies and associations consulted, the restrictions which were at first thought necessary have been very materially relaxed. In one respect, indeed, *viz.*, in the reduction to seven years of the minimum age at which a child may be employed, the Governor-General in Council does not feel sure that relaxation may not have been carried too far. He has assented to the experimental adoption of the existing limit on the grounds that children of seven years are at present largely employed in factories without apparent injury to them; and that several Local Governments thought the limit of eight years as fixed in the Bill too high. But he considers that the working of this provision in the law will need to be carefully watched; and that it cannot be maintained unless it is found beyond doubt to provide an adequate measure of protection to children of tender years."

This Act of 1881, then, dealt with powers of inspection in the hands of Local Governments, the regulation of the employment of children, the fencing of machinery, the duty of notifying occupation of a factory and accidents to employees, and the powers of Local Governments to make rules for carrying out the provisions of the Act. It did not attempt to regulate adult labour, male or female. It is further interesting to note that what forms so important a chapter in the latest [1] Act *viz.*, that dealing with provisions for the protection and advancement of health and safety—found no place in the Act of 1881. The question was considered by the Select Committee and in Madras and Bombay opinions were expressed before it in favour of legislating with regard to ventilation and sanitation. It was decided, however, not to add anything on

[1] Act XII of 1911.

these subjects to the Bill, and the feeling seems to have been that they could be dealt with better by local legislation.

The Bill, as amended by the Council, was passed, and received the assent of the Viceroy, and was almost immediately promulgated as the Indian Factories Act, 1881 (Act XV of 1881),[1] being applicable to the whole of British India and to come into force on the first day of July, 1881. Reference has been made above to a circular of suggestions with regard to the administration of the Act which was sent to Local Governments with the Act. In this, special attention was drawn to the fact that except in so far as it provided for the fencing of machinery and notice of accidents, the Act did not impose any obligation on millowners for the protection of adults. The scope of the law was thus recognised as limited.

"In framing it," wrote the Officiating Secretary to the Government of India, "the most careful regard has been paid to the representations of the millowners and commercial and other associations which have memorialised the Government of India on the subject of factory legislation. Indeed, consistently with the objects in view, it would have been scarcely possible to frame a more moderate measure; and the Governor-General in Council believes that the uneasiness which is still felt in some quarters regarding its possible effects on the manufacturing industries, is caused not so much by objection to the protection of children and to the fencing of machinery, as by the fear that the provisions designed for these purposes may be injudiciously worked to the detriment of legitimate operations. Such apprehensions are not altogether unnatural; for there is always a risk that, in the absence of suitable precautions, administrative zeal in enforcing a law may overstep the limits and prove

[1] *Cf.* Appendix.

injurious to the conduct of commercial enterprise. Similar difficulties, however, have been satisfactorily surmounted in England; and having regard to the great importance of providing for the people of this country fresh outlets for surplus labour and of avoiding all unnecessary restraints upon industrial employment, the Governor-General in Council desires to impress upon all Local Governments the necessity of regulating the machinery of inspection and of selecting the inspecting agency in such a manner as to prevent all reasonable cause of complaint. The Government of India attach great importance to the choice of Inspectors, who, while they will take care that the provisions of the Act are honestly and thoroughly carried out, will discharge their duties in the most conciliatory manner."

Thus the first Indian Factories Act, imposing the minimum restraint on industry, was launched in a commendable spirit of conciliation.

The Lieutenant-Governor of Bengal considered that the objects aimed at in the efficient and conciliatory discharge of the duties of inspection could be best attained by leaving such duties in the hands of District Magistrates within the local limits of their jurisdicttion, with the exception of Calcutta where the Deputy Commissioner of Police, and of the District of 24-Pergunnahs where the senior Joint Magistrate would act as Inspectors. This practice of appointing officials without any technical qualification was at first followed throughout India. In Bombay the Government Inspector of Boilers acted as a kind of adviser to the various Factory Inspectors.

In this connection and in view of the importance the Government of India attached to the duties of inspection and the dangers it foresaw from undue interference, it is interesting to note a case which arose in Bombay soon after the Act came into operation.

The Collector of the Thana District (*ex-officio* Factory Inspector) who was assisted in his inspection by the Government Inspector of Boilers issued orders to the New Dhurremsey Poonjabhoy Spinning and Weaving Mills that, as their Carding Engines were at irregular distances from each other,—some of the passages between the machines admitting of workpeople passing between them safely while others did not,—the Engines should have a light, movable rail placed at each end of the machines, so as to close up the passages when the machines were at work. The Agents lodged an appeal against this order, and a subsequent one for the placing of a movable guard of block tin on the mule head stocks, on the grounds that, although the machines had worked in their positions for 20 years, no accidents had occurred and that similar unnecessary provision was not required in England. This appeal was supported by the opinion of the Bombay Millowners' Association. The appeal came before the Revenue Commissioner, N. D., by whom it was dismissed. The Company thereupon requested a reconsideration of the appeal which the Commissioner declined. He suspended the orders, however, until Mr. Meade King [1] had reported on it. Mr. Meade King visited the mills on 15th May, 1882, and under his professional advice the orders passed by the Inspector of Factories, Thana, were set aside and cancelled.

And the Bombay Millowners' Association conclude their reference to this case,—"With this exception, no complaints have reached the Association of the working of the Act, the provisions of which continue to be carried out in a conciliatory manner." [2]

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[1] Mr. Meade King, H. M.'s Inspector of Factories, was sent out by the Secretary of State for India at the request of the Government of Bombay in 1882 to report on the working of the Indian Factory Act of 1881.

[2] *Cf.* Annual Reports of the Bombay Millowners' Association for 1880-81, and 1881-82.

CHAPTER II

THE BOMBAY FACTORY COMMISSION OF 1884-85

It was not long before the inadequacy of the Act of 1881 began to be definitely proclaimed. We find that in March, 1884, the Government of Bombay, in forwarding to the Government of India the report of its special Inspector of Factories, urged the expediency of an amendment of the Factory Law of 1881.[1] It suggested further that if the Government of India were unwilling to move in the matter, it, the Government of Bombay, might be granted permission by local legislation to extend the provisions of the Factory Act which it held to be 'gravely and palpably inadequate.' The Government of India pointed out certain objections to special local legislation, but without negativing the proposal, it asked that it might have the opportunity of first consideration of the Draft Bill if special legislation were to be undertaken. Following upon this, in the Government of Bombay Resolution, No. 1766 of 23rd May, 1884, it was declared :—

'The Governor in Council must adhere to the opinion already expressed by him and communicated on more than one occasion to the Government of India that the provisions of the existing Indian Factories Act are insufficient for the due protection of the operatives, notably the children, employed in the factories, and that the restriction which exempts from the operation of the Act all factories in which less than 100 persons are employed, mars the utility of the measure by removing from its scope the class of factories which stands most in need of careful supervision and of improvement in the arrangements

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[1] Letter No. 1016 of March 27, 1884 (Government of Bombay).

concerning sanitation, machinery and other matters, and should be removed by further legislation.'

The Governor in Council also expressed it as his strong opinion that more should be done for the protection of women and children employed in factories on the principle of the Brititish Factory Acts and for that of all operatives from faulty sanitary arrangements in crowded factories, dangerous machinery, etc. The case for further legislation seemed clear enough but, before arriving at any final conclusion with regard to the provisions of a Draft Bill, the Governor in Council thought it advisable to have the whole subject once more carefully considered by a thoroughly representative Committee. The Bombay Chamber of Commerce and the Bombay Millowners' Association each nominated two members who, along with four members chosen by the Government, constituted the Committee or Commission.[1] The Collector of Bombay, Mr. W. B. Mulock, acted as President. At the same time by Resolution 3183 of 3rd September, 1884, the Government of Bombay directed a small Medical Committee[2] to investigate the subject of the general health and physical condition of mill operatives as compared with other labourers in the city of Bombay. The results of this investigation were published in a separate report but were laid before the larger General Committee. Subsequently by Resolution 3788 of 16th October, 1884, the Government of Bombay authorised the Sanitary Commissioner (Deputy Surgeon-General, J. G. Hewlett) to examine the sanitary condition of the mills, factories and workshops. His report, also separately published, was laid before the

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[1] Mr. W. B. Mulock (President), Mr. S. S. Bengali, C.I.E., Mr. G. Cotton, Mr. Nanabhoy B. Jeejeebhoy, Dr. T. Blaney, Mr. Mancherji, N. Banaji, Khan Bahadur' M.K. Murzban, A.M.I.C.E., Mr J. L. Symonds (replaced by Mr. J. Gordon) and Mr. James Jones (Secretary).

[2] Surgeon-Major J. B. Lyon, Surgeon-Major W. Gray, Surgeon-Major G. Waters and Mr. N. M. Chokshi, L. M, & S.

General Committee. In 1882 Mr. Meade King, one of H. M.'s Inspectors of Factories, was, at the request of the Government of Bombay, deputed by the Secretary of State for India to report on the working of the Factory Act of 1881. His report proved a useful starting point for the working of the Factory Committee or Commission, as it came to be called, and several of its suggestions followed in the line of those made by Mr. Meade King.

Before dealing with the details of their recommendations, it is important to refer to a general matter of agreement on the part of the Commission in view of the fact that the Government of Bombay evidently contemplated the possibility of special local legislation. The Commission urged that any amendment to the Act of 1881 deemed necessary should be assimilated throughout India.

'The effect of special legislation for the Bombay Presidency would not only be anomalous but invidious, operating as a measure of protective exemption to the trade of the other Presidencies and giving rise to jealousy and dissatisfaction. We therefore trust that the moderate changes we suggest will be made generally applicable to India, as we have not made them without adequate and strong reasons, as we believe that the progress of manufacture will not be impeded by them, and as we believe they will prove conducive, in the end, to the welfare of both employers and employed.'[1]

Mr. Meade King made much of the total absence of all sanitary provisions in the Factory Act of 1881, and the Commission, turning its attention to this matter, considered some such provisions urgently necessary. The Sanitary Commissioner in his exhaustive and valuable report

[1] Report of Commission appointed to consider the working of Factories in the Bombay Presidency, 1885, p, 3.

dealt in detail with the following in connection with factories:

1. The site.
2. The surroundings.
3. Latrine arrangements and the sanitary condition of the yards.
4. Mill tanks and reservoirs.
5. Construction of the buildings.
6. Lime-washing.
7. Internal arrangements.
8. Ventilation and appliances for the removal of dust.

He did not draw an over-gloomy picture of the conditions existing in factories but he established what he considered a conclusive case for legislation, especially in the matter of ventilation. In Section 40 of his report he wrote:—'I perfectly agree with Mr. Meade King that it is most desirable that a section be introduced into the Act to insist on every factory being kept in a cleanly state and on its being ventilated in such a manner as to insure fresh air being supplied to the operatives and foul air being removed from the rooms in which they work and to render harmless all vapours, dust or other impurities germinated in the course of the manufacturing process or handicraft carried on in them that may be injurious to health, and that the Inspector should be granted authority whenever it appears to him that there is a contravention of this section, to direct a fan or other mechanical means of a proper construction for ensuring ventilation and for preventing or carrying off such vapours, dust or other impurities being provided within a reasonable time.'

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[1] Report on the Sanitary Condition of Mills, Factories and Workshops in the City of Bombay (1885).

The Sanitary Commissioner was further strongly of opinion that the provisions of the Factory Act should be extended to all the small workshops and factories as the sanitary condition of these was far from satisfactory. Mr. Meade King's proposal was that provision for adequate ventilation and sanitation be made obligatory by the insertion of the following section in the Act:—

'Every factory shall be kept in a cleanly state and shall be ventilated in such a manner as to render harmless, so far as is practicable, all vapours, dust or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health.

'Where it appears to an Inspector under this Act that there is a contravention of this section, he may direct a fan or other mechanical means of a proper construction for preventing or carrying off such vapours, dust or other impurities to be provided within a reasonable time, and, if the same is not provided, maintained and used, the occupier of the factory shall be liable to a penalty not exceeding Rs. 200.'

The Commission, while in agreement with Mr. Meade King's proposal, felt that the situation might be more adequately met by the incorporation in the Act of Sections 3 and 4 of the English Factory Act which make provision for the calling in of a Medical or Sanitary Authority instead of leaving sanitary questions to the sole and arbitrary decision of the Factory Inspector.[1]

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[1] Factory and Workshop Act, 1878, 41 Vict. Ch. 16.

Section 3.—A factory and a workshop shall be kept in a cleanly state and free from effluvia arising from any drain, privy or other nuisance.

A factory or workshop shall not be so overcrowded while work is going on therein as to be injurious to the etlfeyoqthe persons employed therein, and shall be ventilated in such a manner as to render harmless, so far as is practicable, all the gases, vapours, dust or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health.

A factory or workshop in which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.

It was further suggested that the recommendations with regard to lime-washing at least every fourteen months and oil-painting every seven years, and provision for ventilation by fan, where necessary, might be carried out by the incorporation in the Act of Sections 33 and 36 respectively of the English Factory Act.[1]

Section 4.—Where it appears to an Inspector under this Act that any act, neglect, or default in relation to any drain, water-closet, earth-closet, privy, ashpit, water-supply, nuisance or other matter in a factory or workshop is punishable or remediable under the law relating to public health but not under this Act, that Inspector shall give notice in writing of such act, neglect, or default to the sanitary authority in whose district the factory or workshop is situate, and it shall be the duty of the sanitary authority to make such inquiry into the subject of the notice, and take such action thereon as to that authority may seem proper for the purpose of enforcing the law.

An Inspector under this Act may for the purposes of this section take with him into a factory or workshop a Medical Officer of Health, Inspector of Nuisances, or other officer of the Sanitary Authority.

1 Factory and Workshop Act, 1878, 41 Vict. Ch. 16:

Section 33.—For the purpose of securing the observance of the requirements of this Act as to cleanliness in every factory and workshop, all the inside walls of the rooms of a factory or workshop and all the ceilings or tops of such rooms (whether such walls, ceilings or tops to be plastered or not), and all the passages and staircases of a factory or workshop, if they have not been painted with oil or varnished once at least within seven years, shall be lime-washed once at least within every fourteen months, to date from the period when last lime-washed; and if they have been so painted or varnished, shall be washed with hot water and soap once at least within every fourteen months, to date from the period when last washed.

A factory or workshop in which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.

Where it appears to a Secretary of State that in any class of factories or workshops or parts thereof, the regulations in this section are not required for the purpose of securing therein the observance of the requirements of this Act as to cleanliness, or are by reason of special circumstances inapplicable, he may, if he thinks fit, by order made under this part of this Act, grant to such class of factories or workshops, or parts thereof, a special exception that the regulations in this section shall not apply thereto.

Section 36.—If in a factory or workshop where grinding, glazing or polishing on a wheel, or any process is carried on, by which dust is generated and inhaled by the workers to an injurious extent, it appears to an Inspector that such inhalation could be to a great extent prevented by the use of a fan or other mechanical means, the Inspector may direct a fan or other mechanical means of a proper construction for preventing such inhalation to be provided within a reasonable time; and if the same is not provided, maintained and used, the factory or workshop shall be deemed not to be kept in conformity with this Act.

With reference to the question of Hours of Work, reference was also made to the practice under the English Factory Law. In the United Kingdom male adults had always been considered to be outside the principle of protection afforded by factory law. As far as the English Factory Law was concerned, men might be worked over-time, night-time, and even on Sundays. But it was noted that in practice, the shortening of the hours of the protected classes (children, young persons and women) had just as effectually compelled the shortening of the hours of work of the men as if the latter had been directly dealt with. The Commission did not recommend any legislative interference with the labour of adult males. This decision affected the further decision to recommend that women and children employed in factories should have four holidays in each month and on this ground chiefly Mr. Sorabjee Bengallee and Dr. Thomas Blaney added a note of dissent from the principle enunciated. They wrote :—[1]

'Adult males employed in textile factories in Great Britain do obtain their Sunday rest without legal enforcement, and if male mill-hands in India were similarly situated, legislation on their behalf would be unnecessary. It remains to be seen whether or not in the event of mill owners in England refusing, as is the case in India, to allow their adult male employés a Sunday holiday, the British Parliament would delay immediate steps to enact a law to remedy the evil. . . . . Those who are unacquainted with the working details of textile factories in Bombay, but are intimate with the same industry in England, are liable to entertain the opinion that by prohibiting the employment of women and children on Sundays factories could not work and therefore adult males would be thereby unavoidably benefited.

[1] P. 17, Report of Bombay Factory Commission (1885).

But to think so would be a mistake. In England in cotton factories 74 per cent. of the mill operatives consist of women, young persons and children, and 26 per cent. or thereabout are adult males above the age of 18. On the other hand, in the cotton factories of India the male operatives, called 'Adult Males' according to the law when over twelve years of age, form 75 per cent. of the total number employed, the women and children being only 25 per cent. The evidence recorded shows moreover that nearly all women operatives here work as 'rulers' and 'winders,' a department of the industry which can easily be kept separate from the main factory.

'It will therefore frustrate the humane intentions of Government and be a great disappointment to all well-wishers of the mill-operatives of India, if provisions are not specially introduced into the future Indian Factory Act, whereby male adults shall be entitled to a weekly day of rest along with women and children.

'We therefore respectfully submit that the alteration proposed by the Commissioners in Section 8 of the present Act should be extended to adult males and that all mill operatives, male and female, shall alike be entitled to one day of rest in every seven days in addition to their native holidays, which are about fifteen per annum.'

As we shall see, the point of this protest was upheld by the provision made in Clause 5 B of the Indian Factories Act of 1891.[1]

Reference has been made to the 'protected classes.' Under the English Factory Acts they were as follows:—

I.—Children between 10 and 14 years.

II.—Young persons between 14 and 18 years.

III.—Women, 18 years and upwards.

In order to give protection and enforce the law against overwork it had been found absolutely necessary, not

[1] Act XI of 1891, Cl, 5B.

merely to fix a maximum period of labour in the day, but also maximun limits within which such period might be taken. The absence of this latter provision had made the Factory Act of 1848 in England unworkable, and accordingly it was prescribed that the work of the 'protected classes' in textile factories should be taken within 6 A.M. and 6 P.M. or within 7 A.M. and 7 P.M. Within these hours children or 'half-timers' were to be worked either in morning or afternoon sets or on alternate days, attending school once a day under the former system and twice a day under the latter when not employed. Young persons or women were to be allowed two hours for meals and could not be worked continuously for a spell exceeding 4½ hours without at least half an hour for a meal. On Saturday they were to be prohibited from working more than six hours and on Sunday their employment was to be forbidden. Under this law women and young persons could not be worked more than 56 hours in the week. In the Indian Factory Act of 1881 no maximum limits were prescribed and no mention made of women and young persons whatever. Only children between the ages of 7 and 12 were protected and the protection had proved inefficient.

The Commission, in considering this question, turned first to the hours of work of female labour. It pointed out how where women could be worked as long as men this might mean an 80½ hours week in the cold weather and a 98 hours week in the hot weather, and even these hours might be exceeded where artificial light is used. Evidence regarding such excessive hours of labour in the small ginning and press factories of Khandesh was put before the Commission. In consequence it records the following:—

'We are strongly of opinion that some restrictions are necessary on the labour of women, more especially

when employed on machinery driven by steam........... As recommended by Mr. Meade King, women and children should not be allowed to work before 6 A.M. or after 6 P.M., and in that period they should have an hour's interval for food and rest,—either a full hour in the middle of the day or two half hours with a convenient spell of work between them.'

In the first Draft Bill of the Act of 1881 a distinction between young persons (12 years to 16 years) and children (under 12 years) was recognised. As we have seen, this distinction disappeared in the later Draft. While the Commission, after taking the matter into consideration, did not think that the distinction was to be recommended, it indicated clearly its opinion as to the unsatisfactoriness of the Act of 1881 so far as the regulation of the employment of children was concerned. Its recommendations in this matter are contained in the following paragraph from its Report :—

'Seeing the high temperature in the mills of this country, the weaker physical development of natives of India, the small practical value of the labour of a child, and the recommendation made by the Medical Committee appointed by Government Resolution No. 3183, dated 3rd September, 1884, that the ages should be increased to 10, we consider that no child should be employed before 9 and that adult labour should not be exacted until 14 instead of at 12 as now : we recommend 9 in preference to 10 suggested by the Medical Committee as we think that the changes in this direction should be gradual so as to avoid the possible hardships entailed by throwing a number of children out of employment.'

The Commission further concurred with Mr. Meade King in thinking that the only way to enforce the statutory limitation of nine hours for child's labour not being exceeded was to fix a period of employment for

such. Accordingly the recommendation was that children's labour should be taken within the hours of 7 A.M. and 5 P.M., with an hour's interval for meal and rest, to be taken when the women have their relaxation. This provision was regarded as necessary because of the great difficulties in the way of introducing a half-time system of education like that in operation in the United Kingdom, under the Factory Acts.

Passing reference has already been made to the demand for one day's rest in seven. On no point were opinions more unanimous than with regard to the necessity for this provision. The Commission advocated the extension of Section 8 of the Act of 1881 to women (The Medical Committee wished still further to extend it to men). 'The four days should be made statutory by Government notification under the Act and they should be Sundays whenever possible,—banks, offices, docks being closed on that day. Most of the witnesses gave it as their opinion that Sunday would be the most convenient day, and we believe it the one invariably selected by millowners under Section 8 for the children's holiday.'

The Commission indicated its agreement with Mr. Meade King that all children should be examined by certifying surgeons previous to employment in factories and that they should be certified as to their physical fitness as well as their age; also, that certifying surgeons' certificates on these points should be made compulsory and not left dependent on the possible order of an Inspector or the request of any person employed or about to be employed. The fee for such a certificate should be low and should be paid by the child or rather by the parent of the child.

The Commission was further in agreement with Mr. Meade King in suggesting that a clause, similar to Section 68 of the English Factory Act of 1878 for the prevention or punishment of obstruction to the Inspector, should be

incorporated in any new Act and that occupiers should have to produce their registers as well as keep them.

Of other matters considered by the Commission, its recommendations with regard to the Section of the Act of 1881 defining a factory are very important. It held that the words, 'for not less than four months in the whole in any one year,' should be deleted and should cease to form a part of the legal definition of a factory. 'We were much struck by the evidence given before us regarding over-work in the Khandesh (Pachora) Ginning and Press Works. These establishments generally employ less than 100 hands, of whom, more especially in the ginning works, the majority are women and some are children. They work intermittently and spasmodically, according to fluctuations in the market or on emergent orders for cotton from Bombay. Their usual working hours are from 4 or 5 A.M. to 7, 8 or 9 P.M., but when working at high pressure they work sometimes day and night for eight days consecutively until the hands are tired out and lose their health.'[1]

Following on this they recommended that Clause (*b*) of Section 2 of the Act, exempting factories of less than 100 hands, should also be repealed.

'We personally visited several of these small establishments and their insanitary condition, their unfenced machinery, and their pressure from over-work satisfied us that early steps were necessary for bringing them under supervision.'[2]

The evidence with regard to ginning and pressing establishments which were scattered throughout the Mofussil was especially damning but the Commission felt it had to be moderate in its recommendations lest legis-

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[1] P. 10, Report of Commission.

[2] P. 12, Report of Commission, *Cf.* paras. 22,23,25,26, and 41 of Report of the Sanitary Commissioner and para. 17 of Report of Medical Committee.

lative interference should deprive 'these wretched women' of their employment, their place being supplied by men. It was felt, also, that too much interference might drive the labouring classes from these country districts to parts like Bombay, already overcrowded. The conditions of labour in the country were certainly healthier and the Commission recommended that women and children be allowed employment for 16 hours with two hours' rest, in temporary factories, such as ginning presses up country, working for shorter periods than six months in the year.

The Commission was, further, strongly of opinion that all factories, no matter what the number of hands employed, in which steam, water, or other mechanical power was used, should be under regulation, and that other places or workshops where manual labour is exercised should be brought under the law if ten members of the 'protected classes' are employed therein. 'We may add that we draw the line at ten owing to the impossibility, without more Inspectors being appointed, of enforcing the law on workshops employing less hands.'

In relation to the work of this Commission it is interesting to note that on 20th November, 1884, the President received a letter from Mr. Narayan Meghaji Lokhanday, Chairman of the Millhands' Association, enclosing a memorial to the Commission drawn up on behalf of the mill operatives in the city of Bombay. Altogether the signatures of some 5,500 mill operatives were appended to the memorial. In September, 1884 (23rd and 26th) public meetings of mill operatives had been held at Parel and Byculla and at these the following resolutions, which were incorporated in the memorial, were unanimously adopted.[1]

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[1] Report of Commission, p. 228.

1. That all millhands be allowed one complete day of rest every Sunday.

2. That half an hour's recess be allowed them at noon every working day.

3. That work in mills should commence at 6-30 A.M. and cease at sunset.

4. That payment of wages be made not later than the 15th of the month following that for which they have been earned.

5. That a workman sustaining serious injury in the course of his work at the mill, which may disable him for a time, should receive full wages until he recovers, and that in case of his being maimed for life, suitable provision be made for his livelihood.

The Report of the Bombay Commission, with its appendices including the Sanitary Commissioner's Report and the Report of the Medical Committee, was submitted to the Government of Bombay which considered the various recommendations and then issued its views in Resolution No. 135 (General Department) of 4th February, 1885. It summarised the main proposals of the Commission referring to—

(1) The sanitary provisions suggested.

(2) The raising of the minimum age of employment of children (9 years).

(3) The raising of the age at which a child may be employed as an adult (14 years).

(4) The restriction of hours of female employment.

(5) The statutory grant of four holidays a month for women and children.

(6) The examination by a certifying surgeon of a child who is to be given employment.

(7) The obstruction of an Inspector to be punishable by law.

(8) The need for occupiers of factories to keep and produce registers of children employed.

(9) The posting up in prominent places of summaries of the Factory Act and the notification of the time and place when and where the Inspector is accessible to receive complaints.

(10) The Government's power in the amended Act of sanctioning exemption from the operation of the Act.

(11) The provision whereby all factories in which not less than ten women and children are employed, in which steam, water or other mechanical power is used, or where manual labour is exercised, should be brought under the operation of the Factory Act.

The Governor in Council agreed that the provisions suggested under No. (1) were expedient. With regard to (2) while agreeing that the minimum age should be raised from 7 to 9 years he expressed himself as unable to perceive the advisability of the adoption of the suggestion, made by the Commission on the analogy of the English Act, that a child who has fulfilled a certain educational test should be allowed to commence work a year earlier than if he had received no education and had not attended a school for a certain period.

'The objection in India to the employment in factories of very young children is based mainly on physical and not on educational grounds, and is that constant and protracted work in warm and often imperfectly ventilated buildings must exercise a prejudicial effect on immature children by overtaxing their strength, stunting their growth and checking the development of their physical powers. It would seem to follow that work in a mill must be as injurious to a child of 8 years who can read and write as to one of the same age who has received no education. Attendance at school may educate the mind but it does not necessarily educate the body...........The

Governor in Council fails to see how any distinction as advocated by the Commission can properly or reasonably be drawn between children who have been to school and learned to read and write and children who have not. What is bad from a physical point of view for the uneducated must be equally bad for the comparatively educated child.'

The third and fourth points are approved of as judicious. The fifth point also had the approval of the Governor in Council. The note of dissent by Mr. Bengallee and Dr. Blaney and the recommendations of the Mill-Hands' Association made him pause, however.

'Although the provision of days of rest for men as well as women would be beneficial, the Governor in Council hesitates to support a proposal which would be an anomaly in British legislation and be difficult of general application. He must therefore confine his support of the proposal to the cases of women and children : but it may be hoped that the results will be similar to those in the United Kingdom although the proportion of women employed in India is less.'

Proposals (6), (7), (8), (9) and (10) were regarded as free from objection and with the exception of No. (7) necessitated by circumstances. It was considered that No. (10) would enable orders to be passed to meet cases where to avoid inconveniences of divers kinds the Commission recommended that, in the mofussil, in the smaller factories such as ginning presses, which only work for a few months during the year, women and children should be permitted to work for 16 hours, with 2 hours' rest, in the 24.

The Governor in Council considered that the Commission furnished conclusive proof of the expediency of the proposal (11). He was disposed to go further and render the Act applicable to all factories or places (other

than workshops in which only manual labour is employed) where either 10 women and children are employed or where 20 persons in all are employed, whether partly women and children or male adults.

The Governor in Council also urged that further legislation should be for all India. 'The Governor in Council considers that the report of the Commission ought to carry weight in favour of a general amendment of the law. Bombay occupies a predominant place in steam power manufacture.'

CHAPTER III

Interest in Indian Factory Labour in the United Kingdom. The Indian Factory Commission of 1890 and the Act of 1891

While the recommendations of the Commission of 1885 were still under consideration in India, there appeared in the annual Report of the Chief Inspector of Factories (United Kingdom) for 1886-87 a Memorandum drawn up by Mr. Jones,[1] late Inspector of Factories under the Bombay Government referring to the following four evils alleged to exist in Indian Factories :—

(1) The long hours of work and the few holidays in the Bombay factories ;

(2) The occasional withholding of wages from hands ;

(3) The incompetency of mill managers, the dangerous character of many mills, and the inadequate fencing of machinery ;

(4) The ill-ventilated and filthy state of many work-rooms.[2]

Hereby the attention of the Home Government was once more directed to the question of Factory Legislation in India and in Despatch No. 30 (Statistics and Commerce), dated 3rd May, 1888, the Right Hon'ble Viscount Cross, H. M. Secretary of State for India, communicated with the Government of India desiring to be furnished with a report as to the working of the Factory Act of 1881 with particular reference to the success of the plan of

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[1] Mr. Jones was appointed special Inspector of Factories, Bombay, after the visit of Mr. Meade King, H. M. Inspector of Factories, but on his resignation after two or three years' service no further special appointment was made.

[2] Report of Chief Inspector of Factories for 1886-87, pp. 112-123.

placing the duty of inspecting factories in the hands of the Magistrates or of Government Engineers and inquiring whether it was proposed to amend the Act in the direction of additional stringency. The Secretary of State also asked for a statement of the accidents reported to and investigated by the Inspectors under the Act and information regarding the points raised by Mr. Jones. This Despatch was followed by another No. 45 (Statistics and Commerce) of 26th July, 1888. With this Despatch were forwarded copies of questions asked in the House of Commons by Mr. Samuel Smith and Mr. James Maclean calling attention to the hours of labour in Indian factories and the absence of any provision in the Indian Factory Act rendering a certain number of holidays compulsory and asking whether the Secretary of State would consider the expediency of recommending the Government of India to apply the English Factory Acts to India. With reference to these questions the Secretary of State directed the special consideration of the Government of India to the following points :—

(1) whether it is expedient to legislate for the restriction of the hours of labour in the case of adult women and children ; and

(2) whether the closing of factories on one day in seven should be insisted on.

The reply of the Government of India to Despatches 30 and 45 referred to above is contained in Despatch (Judicial) No. 28, dated 27th November, 1888, and Despatch (Judicial) No. 7, dated 5th March, 1889.[1] The Government of India expressed itself as of the opinion that the English Factory Acts were inapplicable to the conditions of labour existing in Indian factories. 'It is a well

[1] The former Despatch appears along with the reports of the working of the Indian Factories Act in Parliamentary Paper No. 124 of 1889, Sess. Vol. 58, p. 463.

The latter Despatch appears in Parliamentary Paper No. 162 of 1889, Sess. Vol. 58, p. 591.

attested fact that the employés in Indian factories reach a standard of comfort and content which is not attained by persons in their own rank of life who are engaged in pursuits of a different nature. Machinery, moreover, is owing to the comparative absence of competition, driven in the factories in India at a pace so slow that it would not be tolerated in England, and it is estimated that in many of the mills in India about twice as many operatives are employed as would be employed in mills of the same capacity in England.'[1] It was further pointed out that the work of Indian operatives was more desultory and less exhausting.

With regard to the question of the extension of the Act it was noted that Madras and Bombay were in favour of making the Act apply to factories in which a smaller number than 100 persons were employed. The Government of India, on the strength of such recommendations, favoured likewise the amendment of Section 2 of Act XV of 1881 so as to bring within the operation of the Act any factory in which not less than 20 hands are employed, reserving a certain power of exemption to the Local Governments, with the previous sanction of the Governor-General in Council.

The question regarding methods of inspection under the Act had been raised. Under Section 3 of Act XV of 1881 provision was made for the appointment of special Factory Inspectors but only in Bombay was a special appointment made, and when, after a year or two, this Inspector resigned, the Bombay Government decided not to appoint a successor but to leave the duties of inspection to the District Magistrates. Regarding this matter the Bombay Government reported as follows:—

'The Governor in Council admits that the inspection of factories by Magistrates can never be so effective as

[1]. Sect. 3 of Despatch No. 7 of 1889 of Government of India (Home Department, Judicial).

an inspection by trained experts, but the choice in India lies between frequent inspection by the one and very infrequent inspection by the other. At the present stage of industrial development the casual and repeated visits of a tolerably intelligent and unprejudiced Magistrate are the most effectual means available for keeping a factory owner or manager up to a fair standard of duty. It may be feasible hereafter, as industrial concerns multiply, to combine the functions of factory inspector with those of inspector of boilers, but this should for some time to come be rather an addition to the inspecting machinery than a supersession of the Magistrates.' [1]

The other Local Governments and Administrations in India were favourable to the maintenance of the system under which the work of inspecting factories was ordinarily undertaken by the magistrate of the district. The Government of India accordingly upheld this view and reinforced its opinion by the following remarks :—

'The number of factories is at present small and their positions are so scattered that the area of the work of a special inspector, whose whole time would be occupied in the work of inspection, would ordinarily be so extensive as to preclude him from making frequent visits of inspection. Moreover, his approach on inspection work would invariably be known beforehand, whereas the magistrate is always on the spot and is able to make his inspections when he pleases. The absence of technical knowledge can be usually supplied by the temporary appointment under Section 4 of the Act of experienced Assistants, such as the mechanical engineers attached to the railways.' [2]

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[1] Parliamentary Paper 124 of 1889, p. 63.

[2] Section 5 of Despatch No. 7 of 1889 of Government of India (Home Department, Judicial).

The next question was with regard to the age at which children should be employed. As we have seen, the Bombay Commission of 1885 recommended raising the starting age from 7 years to 9 years. The Government of Bombay approved of this recommendation but the increased stringency of the Act in this respect met with no favour from the other Local Governments and Administrations. The Government of India, however, upheld the Government of Bombay joining with it also in considering unnecessary and undesirable the exceptions suggested by the Bombay Commission in favour of those children who had received a certain amount of education. They likewise favoured no amendment in the existing statutory provisions limiting the employment of children to nine hours a day, with an interval of one hour.

Approval was also extended to the recommendations of the Bombay Commission regarding the limiting of the hours of work for women to eleven in the day, and the not rendering compulsory by law the grant of holidays to male adult employees. The Commission, however, proposed that for women the law should insist on four days' holiday in each month, the holidays being fixed and notified by the Local Government in communication with the employers of labour. In this point the Government of India differed in its opinion. 'We think that a limitation in the hours of daily labour will introduce into this Act all the improvement it requires in the interests of female operatives and that having regard to the conditions of native life the somewhat desultory character of the labour performed by natives and the numerous holidays of which women avail themselves, it is altogether unnecessary to insist on the provision of a minimum number of holidays as recommended by the Commission.'[1]

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[1] Section 8 of Despatch No. 7 of 1889, Government of India (Home Department, Judicial).

With regard to ventilation and sanitation the Government of India thought it sufficient that power should be reserved to Local Governments to make suitable sanitary rules and to require inspectors to enforce them, so as to secure the cleanliness and healthiness of the factories. 'The sanitary regulations for different factories require to be determined according to climate, situation, local habits and similar conditions, and considerable discretion must be given to Local Governments in such matters. We shall require a draft of such rules to be published and taken into consideration after a specified date, together with any objections or suggestions which may be made by persons interested.'[1]

With regard to the other points raised by Mr. Jones in his Memorandum referred to above, the Government of India, on the strength of the reports it had received from Local Governments, pointed out that wages were not withheld in an illegal manner, though it was a common custom to delay the payment of wages earned in a particular month till some date in the following month; that although there was naturally difference in the management of mills, such management was rarely incompetent, and that, in the existing circumstances of industrial enterprise in India, managers of mills should not be required by law to furnish certificates of competency; and that it considered it unnecessary to add any provision to those already contained in Sections 12 and 15 of Act XV of 1881 regarding the fencing of machinery.

In a telegram of 14th May, 1889, the Secretary of State indicated that he accepted the conclusions of the Government of India except that he desired provision for four days' holiday or absence per month for women and that the exemption of Government factories should

[1] Section 9 of Despatch 7 of 1889, Government of India (Home Department, Judicial).

be under certain restrictions. The telegram concluded, 'Please submit Bill accordingly.'

It will be noted that while the Bombay Factory Commission, obviously under the influence of the recommendations of Mr. Meade King, sought for a greater assimilation of Factory Legislation in India to corresponding legislation in the United Kingdom, the Government of India moved in the other direction and were very explicit in pointing out the peculiarities of the Indian situation. That the point of view of the Government of India met with a large amount of general acceptance there can be no doubt, for India even then was suspicious of Manchester, as we have already seen, and Manchester was not above being jealous of her growing competitor. Two instances indicative of the feeling in the matter may be noted. In November, 1888, the Manchester Chamber of Commerce passed the following resolution:—

'That in view of the excessive hours of labour now worked in the cotton mills of British India, this Chamber recommends that the provisions of the British Factory Acts, so far as they relate to the employment of women, young persons and children, should be extended to and include the textile factories of India.'

It was the Madras Chamber of Commerce which took up this challenge. They took strong exception to the resolution and in a letter, dated 5th December, 1888, to the Secretary to the Government of India, Home Department, the Secretary of this Chamber wrote:—

'The Chamber does not deprecate legislation on the subject; but it submits that such legislation should be guided, not by the desire to procure uniformity with similar legislation in England, so much as by an enlightened perception of what is conducive to the welfare of this country irrespective of the demands of competing interests.'

In April, 1890, Lancashire returned to the attack when the Secretary of the Blackburn and District Incorporated Chamber of Commerce sent a letter (dated 5th April, 1890) to the Secretary of State for India. In it he wrote:—

'My Chamber considers that the judgment of the Government of India has been warped by the clamour raised by Indian millowners, who desire an unfair field for competition with England, and it cannot too strongly express its opinion that, in the matter of Factory Acts, there should not be one law for England and another for India, but that the Indian operatives should receive in full the same protection which is granted to their fellow-operatives in England.'

The matter of further factory legislation was still under consideration in India and accordingly the Secretary of State forwarded the correspondence with the Blackburn Chamber of Commerce to the Governor-General in Council along with a letter dated 15th May, 1890 (Statistics No. 44 of 1890). In this letter it was pointed out that the Chamber urged that under the amended law the hours of work for women, young persons and children would be very much longer in India than in England;[1] that the climate in Indian factories was more trying than in English factories; that in discussions and during legislation on the subject the views of employers had chiefly been heard; that Indian operatives were unable to combine and make their views felt; that it was, therefore, more incumbent on the Government to consider the interests of the labourers and a number of Bombay authorities more or less conversant with the question had reported that the hours of labour in Indian factories were too long for women and children, if not for men.

Meantime, an International Labour Conference had been held at Berlin and at this the British Government

was represented. With reference to the general conclusions of this conference and the points raised by the Blackburn Chamber of Commerce and their relevance to the situation in India the Secretary of State wrote as follows :—

'The general principle of all factory legislation as already adopted in this country and in India, is that life and limb must be protected, and that the health of all women, young persons and children must, so far as possible, be assured. To this principle His Majesty's Government have recently, in the Berlin Conference, declared their adhesion, thus recommending it for adoption by the other powers of Europe. How far this general principle has been already applied in India is a matter for your consideration.

'As regards any additional factory legislation in India, due regard must be had to the circumstances of that country, which are in many respects different from those of any European nation. But the same general principle is nevertheless applicable, and the object of any such legislation must be to secure without fail for the various classes of operatives in India an amount of protection for life and limb and an amount of security for the health of women, young persons and children not inferior to that which is afforded by the law of England.

'Before the Factory Law Amendment Act is passed, it would be well to obtain, if possible, the views of the operatives themselves on the question of hours of labour

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[1] (From p. 48.)

Hours of work daily for	English Act.	Indian Act as proposed.
Young persons between 14 and 18 and women	10 hours ...	11 hours.
Young persons between 12 and 14 ...	5 hours ...	11 hours.
Children between 10 and 12 ...	5 hours ...	9 hours.
Children between 9 and 10 ...	Cannot be employed ...	9 hours.

for women and children, and on the question of holidays. And I suggest, for your Excellency's consideration, whether it might not be possible for a small Commission, consisting mainly of Natives of India, with an intelligent operative among its members, to visit a few of the centres of factory labour in India to ascertain the views of the workpeople, and to submit a report upon the matter for the information of your Government and of the Legislative.'

Reference has been made to a Bill for the amendment of the Factory Act. This Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on 31st January 1890. The statement of Objects and Reasons accompanying the proposed amendments sufficiently explain their general scope.

'The Government of India having recently had under its consideration reports of Local Governments on the operation of the Indian Factories Act, 1881, and the proceedings of the Commission appointed in 1884 to consider the working of factories in the Bombay Presidency, is of opinion that the Act of 1881 should be so amended as to—

(*a*) bring within its scope any factory in which not fewer than 20 hands are employed;

(*b*) raise from 7 to 9 years the age below which a child may not be employed in a factory;

(*c*) limit the hours of work for women to 11 in any one day;

(*d*) extend to women the provisions of the Act with respect to the allowance of holidays to children and enable occupiers of factories to fix such days as holidays for the women and children employed therein as, having regard to the different classes or castes to which they belong, may be most convenient for them;

(*e*) authorise Local Governments to make sanitary rules suited to local requirements; and

(*f*) render it obligatory on occupiers of factories to furnish such statistics as may from time to time be required by the Government.

The object of the Bill is to amend the Act accordingly.'

In spite of the consideration which had already been given to the subject of these amendments, the Bill was referred to a Select Committee by the Council. Naturally further representations were made to the Viceroy with regard to the Bill. One of the first of such and one of the most interesting was that forwarded by the Hon'ble Nowrojee N. Wadia and signed by about 17,000 operatives employed in spinning and weaving mills in the city of Bombay. In this it was prayed—

'that, inasmuch as it is necessary for the common interests of mill-owners and your petitioners alike that there ought to be a complete cessation of work every seventh day in a week, it should be enacted by law that factory hands be allowed one day of rest in a week, and, inasmuch as Sunday is universally admitted to be practically the most convenient day, Sunday might be declared by law so to be the day of weekly rest. At the same time having regard to the fact that in India there is a large number of native holidays (13) the stoppage on these additional days with Sunday might entail needless hardship on employers and employees alike by tending to diminish their respective earnings. Your petitioners further beg to suggest that, as far as possible, wherever a native holiday occurs in a week, then the Sunday following it should be considered a working day;

'and, secondly, that in view of the want of uniformity and punctuality in the practice at present prevailing in the mills where they are employed with regard to

the midday stoppage for taking meals and rest, your petitioners also consider it most desirable that a statutory provision be inserted in the proposed amending Act, making it compulsory on all factory owners to allow regularly and punctually midday rest for half an hour (say) from 12 noon to 12-30 P.M.'

As we have seen in May, 1890, Viscount Cross, the Secretary of State for India, suggested the appointment of another Commission which should try to get the employee's point of view and thus turn the point of such objection as that made by the Blackburn Chamber of Commerce. The Government of India took action upon this suggestion in September, 1890, appointing under Resolution No. $\frac{\text{10 Judicial}}{\text{1384-1394}}$ Surgeon-Major A. S. Lethbridge, C.S.I., Inspector of Jails, Bengal, as President of the Commission and Raja Peary Mohan Mookerjee, C.S.I., Mr. Sorabjee S. Bengallee, C.I.E., and Mir Muhammad Husain, Assistant Director of Land Records and Agriculture, North Western Provinces and Oudh, as members. It was further arranged that these Commissioners should be assisted in their inquiry in each Province by a selected representative of the mill hands of that Province.

The points upon which the Government of India desired the Commissioners to report were—

(1) Is the limitation of the hours of work for women to eleven in any one day proper and sufficient in view of the conditions under which factory labour is performed in India, and do the female operatives desire that the day's work should be limited to this amount, and, if not, to what amount?

(2) Should the law draw a distinction between young persons and adults, and, if so, the age of a child being fixed at from 9 to 12, what should be the definition of a

young person, and what should be the hours of employment of this class?

(3) Is the limitation of the hours of work for children to nine in any one day proper and sufficient in view of the nature of the work on which children are employed in Indian factories and the conditions under which they have to perform that work?

(4) Does Clause (5) of the Bill now before the Legislative Council sufficiently provide for holidays for women and children, and is any provision required prescribing an allowance of holidays for adult male operatives?[1]

(5) Do the male operatives desire that a general working day, and, if so, of what length, should be fixed by law except in cases in which men work in shifts or sets, and, if this change is not desired by the operatives themselves, do the conditions under which they work demand that it should be adopted?

(6) Do the male operatives desire that there should be a compulsory stoppage of work at a fixed time of the day, and, if so, of what length, and should there be an exception in the case of men who work by shifts or sets? If the change is not desired by the operatives themselves,

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[1] Clause 5 of the Amending Bill introduced on 31st January, 1890, proposed the substitution of the following for section 8 of the Act of 1881 :—

'Every occupier of a factory in which women or children are employed shall, before the beginning of each month, fix, according to the castes or classes to which such women or children belong or otherwise, not less than four days in such month to be observed as holidays by each woman or child employed in the factory and shall forthwith give notice of the days so fixed to such officers as the Local Governments may, from time to time, appoint in this behalf.

'An occupier of a factory may with the previous sanction of the Inspector substitute for any day fixed under this section another day in the same month.

'A woman or child shall not be employed in such factory on a day fixed under this section as a day to be observed as a holiday by the woman or child, unless when another day has been substituted for such day, as hereinbefore provided, in which event the woman or child shall not be employed in such factory on the day so substituted.'

do the conditions under which they work demand that there should be a compulsory stoppage of labour, and, if so, in what manner should it be provided for?

In accordance with their instructions the Commission at once got to work. It held 28 meetings, visited 34 factories at Bombay, Ahmedabad, Cawnpore and Calcutta, examined 96 operatives and presented its report to the Government of India on 12th November, 1890. It is interesting to note that of the 96 operatives examined, 69 were selected by the Commissioners on their visits to the different factories, from among the workmen actually employed at the time of their visit. Each witness was examined on the spot in his own language and the answers recorded in detail by the President himself. It was found advisable to exclude the public during the examination of witnesses. The Commission records, 'We are satisfied that, as regards the large majority of the operatives examined, the evidence recorded is the *boná fide* opinion of the operatives themselves, and that, with the precautions taken, it was impossible that they could in any way have been influenced or tutored by others.'[1]

In its Report the Commission answered, in order, the questions put before them by the Government of India.

Question 1. To this question the general answer given is that the limitation of hours of work for women to eleven is proper and sufficient. It was found that female labour was only used to any appreciable extent in factories working with jute, cotton and wool. In the jute industry a larger proportion was employed with moving machinery than in either of the other two industries but their total number of hours of work never exceeded 10 because of the system of shifts. The Commission considered that if the hours of labour were limited

[1] Section 3, p. 1 of the Report of the Indian Factory Commission appointed in September, 1890.

to 11 for women working with moving machinery in other provinces, without any exception[1] these operatives would be replaced by male adult operatives or half-time children; and that a law supposed to be passed for their benefit would thus inflict serious permanent injury on these skilled mill-hands and deprive them of the chance of earning a living in these factories. Reasons were adduced to support this conclusion.[1] While, therefore, agreeing to the limitation of the hours of work for women in general, the Commission indicated that it was of opinion that women then working with moving machinery should, if they desired it, be individually exempted from the proposed restriction or that the proposed Act should authorize Local Governments, after good and sufficient enquiry, to exempt certain female operatives from the provisions of the Section requiring a limit of 11 hours of work. It is of some interest to note that under the Regulations concerning female labour adopted by the Berlin International Conference the Commission got some support for what seems rather an unsatisfactory solution of a difficulty. With regard to women the Berlin Conference resolved, 'That their actual work should not exceed 11 hours a day, and that it should be broken by rests of a total duration of one and a half hours at least. That exception be allowed for certain industries.' With regard to the opinions of the female operatives themselves the Commission found that generally there was no desire to have the existing hours of work shortened.

Mr. Sorabjee S. Bengallee differed from his colleagues and in a separate note indicated his disapproval:

'If this recommendation is adopted, the intention to restrain factory women from over-work will be frustrated; and, further, the proposed exemption will be wrong in principle. The mill-owners of Ahmedabad may or may

[1] Section 8, p. 3 of Report of Indian Factory Commission of 890.

not carry out the threat of dismissing all women from employment, when they are prohibited, owing to a Legislative Act, from working the same period of time as adult males. But I do not see why the excellent system of working by shifts prevailing in Calcutta should not be adopted in Ahmedabad, instead of the present method. By this shift system a factory may work continuously for 12 to 14 hours, yet a woman's work can be limited from 9 to 10½ hours during the day without any difficulty.[1]

Question 2. To this question of the need for a distinction between young persons and adults, which had already been much discussed, the Commission of 1890 gave fresh consideration and arrived at the conclusion 'that there should, in this country, be no separate class recognised by law as young persons, and that this difficulty should be met by raising the maximum age of children to 14.'[1] The reasons for arriving at this conclusion are enumerated.[2]

Question 3. To this the Commission answered that, in the first place, nine hours' work, except under the shift system, was too long for Indian children, and, in the next place, that, except where the shift system prevailed, it had never been given a trial since the law was passed. Nor was it, they wrote, a suitable time to fix except when the children worked in shifts. In support of their first contention they referred to the decision of the International Conference at Berlin to the effect that actual work of children below 14 should not exceed 6 hours a day, and to the opinions of a number of Indian experts on the subject. The Commission came to the conclusion that, apart from the nine hours shift system prevalent in Calcutta, a system to which no serious

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[1] P. 15 of Report of Indian Factory Commission of 1890.

[2] P. 5. Report of Indian Factory Commission of 1890.

objection could be raised, the half-time system would afford the only solution of all the difficulties which surround the question. 'In fixing the hours of work for children, the greatest care must be taken to see that nothing is done which will make it impossible for the factory-owners in this country to make full use of the labour of children. Having this point prominently in view, we suggest that since it is the rule for nearly all Indian factories to work from day-light to dusk, that is, taking the extreme limits in summer of 5 A.M. to 7 P.M., or 14 hours with half-an-hour's interval, the extreme half-time work of a child must be fixed at 6¾ hours. As a rule, however, it will not on the average exceed 6 hours. We shall avoid all chance of causing inconvenience if we recommend 7 hours as the extreme limit within which children should be employed. If the proviso that no child shall be allowed to work by artificial light is adopted, and the rule requiring a compulsory stoppage of work at midday is added, it will make it impossible for factories to employ a child in any one day for more than 6¾ hours, or all the year round for an average of about 6 hours.'[1]

As we have seen Act XV of 1881 fixed the limit of nine hours' work for children and required an hour's interval for rest. The Commission declared it as their unanimous and well-considered opinion that if children are worked as half-timers in the manner it recommended, no fixed interval of rest for them should be required by law.

The Commission recognised the objections to the system they proposed. They regarded as exaggerated, however, the fears of the danger of the same child working in the forenoon in one factory and in the afternoon in another. 'We also notice that much stress is laid on the fact that there being no compulsory education in

[1] P. 7. Report of Indian Factory Commission of 1890.

this country, children employed as half-timers would run wild and get into bad company. To this argument we reply that there is little doubt that when the scheme of half-time work is adopted, Local Governments will, with the help of mill-owners, devise some means for educating the children and keeping them under control in schools. Supposing that no step were taken in this direction, which is most improbable, we would say, 'Let the children do what millions of unemployed children do in this country, what the half-timers of Ahmedabad do apparently without any injury—amuse themselves as they please.'"[1]

Question 4. To the first half of this question the answer was made that Clause 5 of the Bill did not, in the opinion of the Commission, provide what was really wanted, namely, one day's rest in seven. Under the proposed clause women and children would have got 48 holidays in the year, and it was accordingly recommended that the law should fix one day's rest out of seven days or 52 holidays in the year.

With regard to the second part of the question it was recommended, subject to exceptions in the case of work, for technical reasons, necessitating continuous production, or in other special cases, that provision be made in the Act for securing to male adult operatives the same holidays as have been recommended for women and children. Reasons are adduced for this conclusion important among which are the unanimous opinions of operatives themselves in favour of the change, and the fact that the mill-owners of Bombay had offered through the Mill-owners' Association to accept the rule that there should be a weekly holiday.

With regard to the particular day for this weekly rest Sunday was regarded as the most suitable day. It is

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[1] P. 8. Report of Indian Factory Commission of 1890.

interesting to notice in this connection that although this suggestion had been made before, the Government of India was careful to make no direct reference to Sunday as the day of rest, no doubt because of the possibility of its intentions being mistaken if it fixed in this way on the Christian Sabbath. But the inquiries of the Commission removed all difficulties. And if the hands of a religiously neutral Government wanted further strengthening in such a matter, they could get it from the opinions of Mr. N. M. Lokhanday, President of the Bombay Mill-hands' Association, which were printed as an appendix to the Report. He elaborates the advantages of the Sunday holiday and must get credit for the discovery of the following fact which in all the previous discussions had never even been mentioned :

'Sunday is not only Christian day, but it is observed by Hindus also as their religious day. The God Khandoba or Kulswami's favourite day is Sunday. Almost all the mill-hands are the devotees of this god Khandoba. It will not, therefore, be considered as an innovation to grant Sunday as a holiday to the Hindus, as this custom has been observed for many years, and has 'since the benign rule of the British become a general holiday for people of all creeds, classes and religions.'[1]

With regard to this matter the Commission further recommended that the occupier of a factory should be allowed by law to work his factory on the Sunday following a festival holiday, and that Sunday should be a complete day of rest, that is, that no operatives should have to attend on holidays, for example, for the purpose of cleaning machinery.

Question 5. In reply to this the Commission declared that the operatives desired that the existing working day—day-light to dusk—should be continued. 'Some

[1] P. 94. Report of Indian Factory Commission of 1890.

intelligent mill-hands have, no doubt, expressed a wish to have fixed hours; but others,—and these are the poorer operatives—object very decidedly to any alteration in the present arrangement which is likely to reduce their wages.'[1]

With regard to the second part of the question the Commission gives it as its opinion 'that there is nothing in the conditions under which Indian operatives work which calls for any legislative restrictions as to the hours an adult male may choose to work. Nor can we conceive any conditions which can ever call for State interference in this matter.'[1]

Question 6. This question the Commission answered in the affirmative declaring that the male operatives did desire legislation on the point, and that the majority would be content with a recess of half an hour if they could get a full half hour. It recommended accordingly that between the hours of 12 and 1 P. M. every factory not working on the shift system and not obliged for technical reasons, to work continuously, should be required to stop its machinery for full thirty minutes.

The Commission concluded its report by making several general suggestions of little importance from the point of view of legislation. 'We have been profoundly impressed with the vast and far-reaching benefits which the people of India are deriving from the development and prosperity of the great industries which we have seen on our tour through the country. It would, in our judgment, be a great calamity if by any injudicious recommendations or unnecessary restrictions the prosperity of those industries was endangered.'[2]

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[1] P. 10. Report of Indian Factory Commission of 1890.

[2] P. 14. Report of Indian Factory Commission of 1890.

During the course of the discussion over the proposed amendments on the Factory Act of 1881 the Secretary of State for India had taken much interest in the matter, and in the beginning of 1891 we find him repeatedly urging the Government of India by cable to expedite the transmission of its views on the Report of the Commission of the previous year and its legislative proposals. Accordingly on 13th February, 1891, the Viceroy despatched the following telegram to the Secretary of State for India :[1]

'Referring to your Despatch No. 44 Statistics, dated 15th May, 1890, and your public telegram of 28th January, 1891, we have arrived at the following conclusions on the Factory Commissioners' Report :—

1st. Eleven hour's actual work to be prescribed as maximum for women, with one hour's interval of rest; in addition, Government of India to reserve power to exempt certain industries, as resolved at Berlin Conference, but not individuals as suggested by Commission.

2nd. Nine to fourteen to be fixed as age for children; no separate class of 'young persons' for reasons indicated in paragraph 11 of Commissioners' report.[2]

3rd. Half-time, not exceeding maximum of 7 hours, to be fixed for children as so defined; with this provision no interval of rest for children will be necessary.

4th. Sunday holiday to be adopted for all factories, excluding those exempted by Government of India for reasons stated in 2nd Resolution of Berlin Conference.[3]

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[1] *Cf.* Parliamentary Paper 224 of 1890-91. Vol. 59, p. 203.

[2] Their reasons for considering it unnecessary to place any person over 14 under restrictions as to hours of labour, the Commissioners indicated, were derived from their intimate knowledge of the Indian operatives, their social customs and their pecuniary requirements. The reasons are developed in the paragraph referred to.

[3] *i.e.*, where for technical or other reasons continuous production is regarded as necessary.

Sunday labour to be allowed when native holiday is given within the week.

5th. Midday stoppage of half hour to be made compulsory in all factories subject to same exceptions of Sunday labour.'

The Secretary of State sent a prompt reply on 17th February, 1891, indicating his acceptance of the Government of India's conclusions with the following exceptions :—

1. Children's hours of actual work should be six, with half hour interval of rest, following Berlin Conference.

2. Women's interval of rest should be extended from one hour to one and a half, following Conference.

3. Employment of women and children at night should be barred, following Conference ; but this need not prevent work in cool hours of early morning.

4. Are you satisfied that settling lowest age for children at nine instead of ten, as proposed by Conference, is safe and in accordance with the view of mill hands ?

To these objections the Government of India were equally prompt in reply, for in a telegram of 20th February, 1891, it indicated that it was willing to accept the second and third modifications, under slight protest. Strong exception, however, was taken to the conclusion relating to the hours and interval of rest for children as it was satisfied that no fixed interval of rest, beyond the casual absences then allowed, was necessary for half-time children. With regard to the fourth point the Government of India declared unhesitatingly that a minimum age of nine in India was fully equal to ten in Southern Europe and that it was safe and in accordance with the wishes of mill hands.

This spirited reply called for another wire from the Secretary of State, which was despatched on 2nd February, 1891.

'H. M. Government have considered your telegram of 20th instant and have decided that the Bill must be proceeded with and passed this Session without fail. Also, that it would be quite impossible to allow children to work the hours you name without a statutory recognition of interval of rest out of hours of actual work. It is true, as you say, that casual absences are already allowed by custom, but the interval or intervals of rest must certainly be secured to them by statute.'

To this the Viceroy was constrained to answer humbly (by telegram of 24th February, 1891).

'Agreeing to statutory recognition of interval of rest for half-timers under conditions which will not necessitate stoppage of machinery.'

The bill with the mass of material relating to the amendments it proposed was forthwith put before the Select Committee appointed by the Council on 31st January, 1890. But things did not go altogether smoothly and the Viceroy had once more to make use of the services of the cable on 7th March, 1891, when he informed the Secretary of State for India that the Factory Bill had passed the Select Committee with difficulty and only after two modifications on the terms already telegraphed had been made. The modifications as stated were:—

'1st. Women are permitted to work at night, when work is arranged on shift system. Night work is uncommon but where it prevails I see no reason to debar women from it. In hot weather it is less fatiguing and natives are accustomed to sleep at any hour.

2nd. Where shift system prevails, children allowed to work 2 shifts each not exceeding 4 hours, with a minimum interval of 2 hours.'

The Secretary of State's reply is contained in a telegram of 9th March, 1891.

'Agreeing to permissive night work for women provided limit of 11 hours' actual work in 24 and 1½ hours' interval of rest maintained. H. M.'s Government cannot agree to modification respecting children as apparently stated in your telegram, but if it is intended that children shall work 2 shifts of 4 hours with intervals of 2 hours, and one shift of 4 hours on alternate days, I agree, provided no child's labour shall exceed 12 hours in any two consecutive days. By decision of H. M.'s Government Bill must be passed without delay——.'

This finished the telegraph debate and on March 24th, 1891, the Bill was introduced in the Council of the Governor-General and passed.[1] Since the previous introduction of the Bill the Government had had before it the Report of the Factory Commission of 1890 and many of its conclusions were accepted and incorporated in the Bill with some modifications which have already been referred to in relation to the discussion which preceded the introduction of this Bill. Section 5(*b*) in the Bill provided for Sunday as a weekly day of rest. This clause, it may be noted, was in accordance with the conclusions of the Berlin International Conference. The midday stoppage was provided for [Section 5(*a*)].

No child was to be employed in a factory if under the age of nine years, and no person could be employed as an adult until certified to be over 14 years of age. Seven hours was set as the daily maximum for children and to prevent the possibility of overwork the Bill fixed an interval or intervals of rest amounting in the aggregate to at least half an hour. The daily period of women's employment was

[1] *Cf.* Gazette of India, 1891, Supplement, p. 49.

to be 11 hours and in accordance with the recommendations of the Berlin Conference the Bill provided that this period of work should be broken by rests of total duration of $1\frac{1}{2}$ hours at least, exception being made in cases of factories notified by the Governor-General in Council (Section 6).

By providing that the work of women and children should be done between five o'clock in the morning and eight o'clock in the evening[1] the Bill prohibited night work for these classes. In securing intervals of rest in this way and in prohibiting night work the Bill went beyond the recommendations of the Commission but no objection to such conditions was raised by employers and they were certainly for the benefit of employees. The proposal was made to extend the operation of the law to factories in which not less than 20 persons were employed. This proposal, as we have seen, was strongly supported by the Government of Bombay but the Government of Bengal objected to it and pointed out that, while it considered 100 too high a number, 20 was too low. Accordingly (Section 2(*b*)) 50 was fixed as a general minimum but in Section 20 which was added to the Bill, power was given to Local Governments to extend the operation of the Act to factories in which less than 50 but not less than 20 persons were simultaneously employed.

The Bill embodying these amendments was passed without more serious opposition although the rumblings of old complaints were heard. Typical, perhaps, was the remark made by the Hon'ble Mr. Mackay : 'Although the limit to which restrictions should go has certainly been reached in the Bill now before the Council, I am happy to say that I believe the measure on the whole will give general satisfaction throughout India and at

[1] Except in the case of women where a shift system was in operation.

the same time it should effectually silence Lancashire for ever.'[1] The India *versus* Lancashire plaint was put more eloquently by the Hon'ble Mr. Nugent:

'We should, I think, protect the Indian operative within all reasonable limits, but we should not protect out of existence him and the industry which is his livelihood, nor should the protection of the Indian mill-hand be converted into a device for the protection of the British manufacturer against the Indian mill-owner.

'True and disinterested philanthropy is a specially estimable virtue but when we find the English manufacturer selecting as the objects for the exercise of his spirit of benevolence men of other race, creed and hue who happen at the same time to be employees of that manufacturer's most dangerous and successful competitors, when we see him urging the introduction of measures for the supposed amelioration of the condition of those employees, calculated seriously to affect the industry of his rivals, it is not perhaps entirely unnatural to feel some suspicion whether the philanthropy thus displayed is altogether genuine and wholly unselfish. But the Indian operative, though in happy ignorance of Latin and Greek, ancient history and mythology, is sufficiently shrewd and sagacious, I think, to distrust the gifts thus offered him by the Greeks.'[2]

H. E. the President summed up the debate by saying:—

'We believe that the effect of our measure will be to place factory labour in India on a proper footing and that our Bill will be accepted here and at home, not, as the Hon'ble Mr. Nugent would have us believe, as a mere 'prelude' to still further restrictions, but as a settlement as final as any settlement of such a question

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[1] *Cf.* p. 52, Gazette of India, 1891, Supplement.

[2] P. 58, Gazette of India, 1891, Supplement.

can be ; nor, I hope, shall we, who believe in the great future of the mill industry of India, allow ourselves to suppose that such restrictions as those which we are about to impose will affect that industry with paralysis. The bases upon which its prosperity reposes are so solid as to render it in the highest degree improbable that the amount of interference to which it will be subjected is likely to arrest its development.'

The Bill was accordingly passed and references to Act XV of 1881 were henceforth read as references to that Act as amended by the Indian Factories Act, 1891 (XI of 1891).[1]

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[1] 1. Sections 1, 12, 19 of Act XV of 1881 were partly repealed.

In *Section 1* the words and figures, 'and shall come into force on the first day of July, 1881,' were repealed.

In *Section 12* (*a*) with regard to fencing the word 'or,' between 'steam engine' and 'water which' was repealed.

In *Section 19* whereby the Act was made applicable to crown factories, the word 'such' was repealed, making it possible for the Governor-General in Council or the Local Government to exempt any factory from the Act in case of any public emergency.

2. Sections 2, 3, 4, 5, 13, 14 and 16 were amended.

In *Section 2* the amendment of clause (*b*) brought factories in which not less than 50 persons were employed under the Act.

In this Section, 14 was substituted for 12, and also wherever necessary throughout the Act as indicating the age under which a person was a 'child.' In the definition of 'employed' 'person' was substituted for 'child' and a superfluous 'either' repealed.

In *Section 3* with regard to the appointment of Inspectors the words 'by name or by office' were inserted and the clause 'The District Magistrate shall, in virtue of his office, be an Inspector of all factories, if any in his district' substituted for the corresponding clause in Act XV of 1881.

In *Section 4* (*b*) the word 'purposes' was substituted for the word 'provisions, and in clause (*c*) and throughout the Act 'nine years' and 'fourteen years' were substituted for 'seven years' and 'twelve years.'

In *Section 5* with regard to examination by certifying surgeons these words were inserted, 'And on payment by such persons of such fee, if any, as may from time to time be prescribed by the Governor-General in Council by notification in the Gazette of India.'

In *Section 13* regarding accidents the word 'next' was inserted after forty-eight hours, and the words 'the accident' took the place of 'such accident.'

In *Section 14* regarding given notice of occupation of a factory the words 'and of' were inserted before 'the place' and the words 'if any' after 'person' were repealed.

The amended Act came into force on the first day of January, 1892.

In *Section 16* regarding the burden of proof as to age the words ' nine ' and ' fourteen ' were substituted for ' seven ' and ' twelve.'

3. Sections 5A, 5B, 6, 7, 8, 9, 10, 11, 15, 17 and 18 were substituted.

Sections 5A to 11 were substituted for Sections 6 to 11 of Act XV of 1881.

Section 5A provided for the midday stoppage of half an hour for all operatives.

Section 5B provided for the Sunday holiday for all operatives with certain exceptions.

Section 6 dealt with the employment of women which was to be taken between 5 A.M. and 8 P.M. except in factory under shift system, to be for a maximum of 11 hours daily and to be broken by an interval or intervals of rest amounting in the aggregate to at least an hour and a half on the day.

Section 7 regulated the employment of children (9 to 14 years). Their work was to be for a maximum of 7 hours between 5 A.M. and 8 P.M. and to be broken by an interval or intervals of rest amounting in the aggregate to at least half an hour.

Section 8 prohibited the employment of a child in certain dangerous work.

Section 9 made it necessary for the occupier of a factory to keep a register of the children employed in the factory.

Section 10 was supplementary to Sections 6 and 7 making necessary for the occupier of a factory the setting up and maintaining of a notice indicating the time of the intervals of rest for women and children.

Section 11 prohibited the employment of a woman or child in two factories on the same day.

Section 15 dealt with penalties.

Section 17 indicated that the occupier of a factory would be primarily liable for breaches of the Act or orders or rules thereunder.

Section 18 dealt with the power of the Governor-General in Council and of Local Governments to make rules consistent with the Act.

4. Section 20 was added to the Act.

Section 20 gave power to Local Governments to extend the definition of ' factory ' to premises fulfilling the other conditions of the definition, in which less than fifty but not less than twenty persons are simultaneously employed.

CHAPTER IV

Controversy between Trade Rivals—Night work—The Textile Factories Labour Committee of 1906

In 1892 the Royal Commission on Labour, which under the Chairmanship of the Duke of the Devonshire had been appointed 'to enquire into questions affecting the relation between employer and employed, the combinations of employees and employed, and the conditions of labour,' presented its report. Before one of the Committees of that Commission evidence had been given *with regard to the competition* of India with Lancashire in the textile trades. The Duke of Devonshire accordingly considered that it would be of great assistance to the work of the Commission if information could be obtained with regard to the conditions of labour in the textile trades in India. The Secretary of the Commission approached the India Office in the beginning of 1892 on the matter and Lord Cross, the Secretary of State for India, in a despatch No. 7 (Statistics) of the 4th February, 1892, requested the Government of India to supply the necessary information regarding the conditions of the textile trades of India. The Government of India circularised Local Governments on the matter and finally on September 28th, 1892, forwarded, their 'succinct memoranda' to the Earl of Kimberley who had succeeded Viscount Cross as H. M.'s Secretary of State for India. These memoranda appear on pages 103-174 of the Foreign Reports (Volume II), The Colonies and the Indian Empire (cd. 6795) of the Royal Commission on Labour. They form the material from which a general memorandum which precedes them in this volume was

constructed. This memorandum is of importance because it makes a review of the situation subsequent to the passing of Act XI of 1891. No adequate estimate could then have been made of the effects and success of the amendments but it is interesting to note that the following four proposed further amendments are cited in the memorandum:—

1. That a uniform legal 11 hours' day be established.

2. That all spinning and weaving factories, and other factories under the operation of the Indian Factory Act, should be compelled by Government to make provision for the maintenance of persons rendered unfit for further work by accident to their person while in discharge of their duties in the mill premises. Provision should also be made for the supply of medical aid for all the work-people in factories coming under the Factory Act.

3. That the Act limiting the hours of labour for women and children be repealed.

4. That the age at which a boy may work full time be reduced from 14 to 12 as formerly.

The two latter proposals are obviously those of the reactionary and irreconcilable party opposed to the restrictions imposed by the Factory Law.

In relation to the familiar question of Indian and Lancashire competition it was noted that, in so far as evidence was obtained, it was stated unanimously that the condition of labour in the mills and factories was not comparable in the two countries. It was denied that India did compete with England in the spinning of finer yarns and cloth; but even if the contrary were admitted for argument's sake, the loss in one branch of trade was a gain to another, inasmuch as the cotton spinning machinery in Indian mills was almost all imported from England.

Up to this time the question of the need for Factory Legislation in India had centred primarily round the cotton industry of Bombay. But the jute industry in Bengal had also been developing very rapidly and in 1895 the Dundee Chamber of Commerce took on the mantle of Lancashire and drew attention to the need for further statutory regulation of the conditions of industry in India. It put a resolution before a meeting of the Associated Chambers of Commerce asking it to take the matter up but this resolution was defeated.[1] It is interesting to note the attitude adopted in the matter by a Lancashire Chamber as recorded in the adopted report of a Trade Committee of the Oldham Chamber of Commerce, commissioned to consider the subject.

'The chief advantage which the Indian mills seem to possess is that they are allowed to work women and children in shifts, this being impossible here, as women and children are prohibited from working between the hours of 7 P.M. and 6 A.M. Unless the shift system is adopted in the country (and many people are strongly of opinion that it will, if eight hours a day is to be the maximum day's work), there can be no doubt that in this respect the Indian Factory Act does handicap us in our competition with native mills. Your Committee cannot, however, advise the Chambers to take any action at present, and having regard to the difficulties and dangers of imposing English ideas on an Eastern people, it seems doubtful how far the Chamber would be justified in recommending the change in the Indian Factory Law advocated by the Dundee Chamber of Commerce.'[2]

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[1] Annual Meeting of the Association of Chambers of Commerce of the United Kingdom, 12th, 13th and 14th March, 1895.

[2] *Cf.* 'Commerce' (London, 3rd April, 1895), p. 494.

The questions to which the Dundee Chamber of Commerce then drew the attention of the Secretary of State for India were :—

(1) To the injustice of the competition with the home textile industries permitted by the laxity of the Indian Factory Act, as regards the long hours during which machinery operated by women, young persons and children,— may be wrought, 22 hours by women and young persons, and 15 hours by children, as against 10 hours at home.

(2) To the want of adequate and systematic inspection by officials trained and appointed to the work as required in the United Kingdom, and to the question whether even, if such Inspectors were set apart for this work, it would be possible to prevent the intentions of the Legislature, as regards the working hours of women and children, being exceeded where the shift system is in operation.

(3) To the question whether the evils naturally incident to, and experienced in, this country from the employment of women and young persons during long hours and all night, have been sufficiently considered in permitting, under the provisions of the shift system, a new industry so to develop itself.

On these grounds the Chamber submitted that factories conducted by subjects of the Crown and equally under the control of Parliament, whether in India or at home, should be subject to similar conditions; particularly that they should not be allowed to employ women, young persons or children before six o'clock in the morning, or after seven o'clock at night.

The Resolution of the Dundee Chamber of Commerce was passed on, through the Government of India and the Government of Bengal to the Bengal Chamber of Commerce which referred it to the Indian Jute Manufacturers' Association and to the Committee of its own Members.

With regard to the first and third points of the Resolution, it was stated that throughout the Bengal Presidency no woman could ever be wrought 22 hours and no child 15 hours; that night work was then in its infancy and that the natural operation of the shift system would always prevent a stream of labour opposed to the habits of the people and which no reasonable wage would induce them to undertake. 'All the evidence the Committee can gather goes to show that, instead of working for 22 or even 15 hours, women and young persons work for less than 8 hours actually spent in labour in the Mill, and that in addition to having periodical days of rest and holidays throughout the year they take long periods of leave to an extent and in a manner unknown at home.'[1]

With regard to the second point the Committee considered the inspection of factories to be complete and thorough, amply sufficient for all requirements of the Indian Factory Act, 'in itself an uncalled for concession to British sentiment and jealousy.' 'So far as the Committee are in a position to judge, the rules for inspection require relaxation rather than stringency and operate in many cases to the inconvenience of Mills and loss of the mill workers.'[2]

It is worth noting, too, the general spirit of resentment with which the Bengal Chamber of Commerce Committee received the interference, as they regarded it, of the Dundee Chamber of Commerce:

'While the Committee condemn the ignorance underlying the Resolution of the Dundee Chamber, they do not overlook the spirit which dictated it. Put boldly, it is

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[1] Report of the Committee of the Bengal Chamber of Commerce, 1895-96, Vol. II, p. 1176.

[2] *Ibid*, p. 1177.

a claim that Parliament shall at any cost protect Dundee, and similar manufacturing centres, against India and the development of those industries which are beyond question indigenous to India. This claim involves political consideration of supreme importance......It will give rise to many grievances, to serious embarrassments, and to just and widespread discontent, if India is to be met and checked at the outset of the renewal of her industrial career by such protective claims, so imperiously urged and and so very thinly disguised as those of Dundee.'[1]

Both the Government of Bengal and the Government of India supported the Bengal Chamber in its answer and the latter sent a strongly worded despatch to H. M.'s Secretary of State for India accompanying the documents prepared by the Bengal Chamber Committee and the Bengal Government and reinforcing their contentions.[2]

The attention of Colonel Meade King, H. M.'s Superintending Inspector of Factories, who visited the Bombay factories in 1882, was directed to this controversy and in the Report of the Chief Inspector of Factories and Workshops for 1895 he has indicated his opinion with regard to it.

He drew up the following table showing the chief points of difference between the Indian and English Factory Acts so far as hours of work are concerned :—

Textile Factories in the United Kingdom.	Textile Factories in India.
1. A woman may not be employed before 6 A.M. or after 7 P.M.	1. A woman may not be employed before 5 A.M. or after 8 P.M. (except in shifts or sets).
2. A woman may not be actually employed in any one day for more than 10 hours.	2. A woman may not be actually employed in any one day for more than 11 hours.

[1] Report of the Committee of the Bengal Chamber of Commerce, 1895-96, Vol. II, p. 1177.

[2] Govt. of India Despatch, Home Dept., Judicial, No. 11 of 1896 of date 26th February, 1896.

Textile Factories in the United Kingdom.	Textile Factories in India.
3. On Saturday a woman may not be actually employed for more than six hours.	3. On Saturday a woman may be employed as on other days.
4. Total hours of work per week ——56.	4. Total hours of work per week——66.
5. All young persons (under 18 years) *are restricted to the same hours of work* as women.	5. All young persons (above 14 years) are treated as adults.
6. No child may be employed under the age of 11 years.	6. No child may be employed under the age of 9 years.
7. Children may not be employed except on the system either of employment in morning and afternoon sets, or of employment on *alternate days only*, and all children must attend school half-time.	7. Children may be employed any 7 hours between 5 A.M. and 8 P.M. and are not compelled to attend school.
8. No woman, young person or child may be employed during the night.	8. Women and young persons may be employed in the night in any factory in which a system of employment in shifts or sets has been approved by the local Inspector.

The consideration of the above table, Colonel Meade King maintained, showed clearly how some British manufacturers, especially in Dundee and parts of Lancashire, were severely handicapped in their competition with manufacturers in India. In recording such an opinion Colonel Meade King did not mention, nor evidently did he take account of the great difference of conditions in the manufacturing industries of the two countries. But it was important to have him reiterate that the Factory Acts in India were introduced on grounds of humanity and not for the purpose of protecting one class of manufacturers against another. He indicated further that there was room for improvement in India. 'There is reason to believe, if we have regard to the well-being and physical improvement of our Indian fellow-subjects, that factory legislation of an earnest and thorough character is as much needed at the present moment in India as it was in great Britain fifty years ago. And who will deny

that it is better to nip abuses in the bud than to spend years in trying to destroy them after they have taken root.[1]

What was in some respects part of the same controversy as that to which reference has been made was the question asked in Parliament in June, 1894, by Sir John Leng, the member of Parliament for Dundee. He asked the Secretary of State for India 'whether his attention has been called to the fact that a large jute mill in the neighbourhood of Calcutta, fitted with electric light, is now working 22 out of the 24 hours daily, and that women and young persons are reported to be regularly employed through the night.

'Whether it is lawful, under the Indian Factories' Act, for mills owned by English capitalists, and competing with similar mills in the United Kingdom, to be worked night and day with three shifts of hands.

'Whether, if the facts have not yet been officially reported to him, he will cause inquiries to be made with the view of requiring that all mills and factories in India shall be worked on similar conditions to those established in the United Kingdom.'

The Secretary of State indicated that he had no previous knowledge of the facts referred to but pointed out it was not unlawful for mills to be worked night and day with three shifts of hands, but that it was not lawful for women to be employed between 8 A.M. and 5 P.M. unless in shifts or sets specially sanctioned by the Local Inspector; or for children to be employed between those hours under any circumstances whatever.[2]

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[1] P. 236 of Cd. 8067 of 1896.

The concluding sentence seems worth preserving if only for the whimsical development of the metaphor.

[2] The references are to Section 6 (1) and Section 7 (2) of Act XI of 1891.

The matter was, however, referred through the usual channels to the Government of Bengal and to their special Inspector of Factories. The mill referred to was the Hastings Jute Mill at Rishra owned by Messrs. Birkmyre Brothers, and the Inspector of Factories reported on 3rd August, 1894, that for the past six months the mill had been working night and day. This was only possible by the erection of an electric light installation and as the Government of Bengal reported to the Government of India,

'Before introducing this system (*i.e.*, of night work) in their mill, and erecting an electric installation, which has cost them over £10,000, Messrs. Birkmyre Brothers are said to have thoroughly studied the conditions of the Indian Factories Act, and have not infringed the law.' [1]

During 1895 there was abundance of cheap jute and jute mills were enabled to work full time throughout the year. This fact, together with the assurance that night work on a satisfactory system of shifts was in accordance with the law, led many other mills to introduce electric light. This, of course, raised once more the general question as to the advisability of night work. In the early part of 1895 the question of the introduction of electric light in the factories was thoroughly discussed, from their own point of view, by the Indian Jute Manufacturers' Association. The majority of the members of this body were of opinion that it afforded great advantages over the system of working from daybreak to sunset, notably the advantages of less waste, better work, and a longer working day, and the possibility of introducing a system of night shifts such as had been introduced in the Hastings Mill. The special Inspector of Factories,

[1] Govt. of Bengal Despatch, Genl. Dept., No. 138T-G of 16th Sept., 1894.

Bengal, in a letter No. 174, of 28th May, 1895, to the Government of Bengal referring to this development, presented what he regarded as its disadvantages, as for example that there would be difficulty under the shift system, in finding out whether the night operatives in one mill have been working by day in another mill. The Bengal Government did not think this danger a serious one and they were supported in their opinion by the Government of India. 'It would be extremely difficult for an operative to secure such employment in this manner except in factories which are contiguous and it would be quite impossible for an operative to do a full tale of work in two factories to the satisfaction of the Managers.'[1] The special Inspector for Bengal also apprehended, however, that women might suffer from employment by night and he maintained that the working of machinery by night was in the long run unlikely to be profitable. It is interesting to note that the Bombay Government were at this time of opinion that the Factory Act might be amended without objection, so far as the Bombay Presidency was concerned, by rendering illegal the employment (whether in shifts or not) of women in factories before 5 A.M. and after 8 P.M. In the Bombay Presidency, however, women were rarely employed except in cotton mills, and presses, none of which worked by night. It was chiefly with regard to the jute mills in Bengal that the question of night work was acute. At the time there were indications that mill-owners and managers did not show great favour for any great development of night work. It was pointed out that if mills were to be regularly worked by night it would certainly become necessary for the mill-owners to increase largely the amount of European supervision and

[1] Govt. of India Despatch to H. M.'s Secy. of State for India, Home Department (Judicial), No. 11 of 1896, Section 4.

it was probably owing to the fact that the hours of work in some mills had been extended after dusk with the aid of electric light, but without an increase of European supervision, that the Managers of jute mills were reported to be generally opposed to night work. The Government of India, with the evidence which had come to it through the Local Governments before it, delivered its opinion in these words :—

'The one consideration which must in our opinion determine whether such employment should be permitted or not is the welfare of the operative and there is, beyond the vague opinion expressed by Mr. Walsh [1] nothing in the reports of the Local Governments and Administrations to lead us to believe that the employment of women by night in factories in India in which the shift system is in force is objectionable upon moral, sanitary or social grounds. Such employment is not, we think, likely to become common, but we see no reason why it should be prohibited in the interests of the operatives, and we strongly deprecate any attempt to reopen the decision come to in 1891, that women might be employed in factories by night, provided that the limit of a woman's working day should be 11 hours, and that a woman employed 11 hours should get intervals of rest amounting to one-and-a-half hours.[2]

[1] Special Inspector of Factories, Bengal.

[5] Govt. of India Despatch to H. M.'s Secretary of State for India, Home Department (Judicial), No. 11 of 1896, section 4.

Reference may be made to the fact that at this time the Presidency Inspector of Factories at Bombay proposed that Section 5A (1) of the Indian Factories Act (XI of 1891) should be amended so as to require all factories, in which a system of employment in shifts or sets had not been approved, to be closed for one hour between twelve and one o'clock daily instead of for half an hour between noon and two o'clock, and that Section 6 (3) should be altered so as to fix the intervals of rest required for women at one hour irrespective of the hours of labour. The main object of this proposal was to facilitate the check by the Inspector of the period of rest required for women under Section 6 (3). The Government of India thought the difficulty of checking would be lessened in this way but that it would not be

It was not till 1906 that the Government of India on the recommendation of the Secretary of State for India took steps for further enquiry into the conditions of factory labour in India. Under Resolution No. 9974-9993-13, Department of Commerce and Industry, 'Factories,' dated Calcutta, 17th December, 1906, they appointed what was known as the Textile Factories Labour Committee. The Resolution was as follows :

'1. Acting on a suggestion made by His Majesty's Secretary of State for India,[1] the Government of India have decided to appoint a small Committee to enquire into the conditions of factory labour in textile factories in this country. The investigation will be directed in the first instance towards ascertaining the actual conditions

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removed, and they pointed out that the period of one and a half hours' rest for women in a working day of 11 hours was based upon the recommendation of the Berlin Conference and introduced at the wish of the Secretary of State for India. The Government indicated further that, while it retained the opinion of Lord Lansdowne's Government that intervals of rest aggregating one hour would be sufficient, they did not wish to reopen the question.

[1] It is evident that during 1906, perhaps owing the return of a strong Liberal Government, considerable attention was given in the United Kindom to the question of factory legislation in India. On March 14th Mr. Morley (now Lord Morley), the Secretary of State for India under the new Government received a deputation of Lancashire textile workers on this subject. Lancashire employers did not join in this deputation but once more their motives might come under suspicion. In a private letter to Lord Minto, the Viceroy, Mr. Morley thus refers to the deputation (Recollections by John Viscount Morley, Volume II, p. 166).

'I told them that the Government of India shared their views in some of the reforms for which they pressed—more inspection, stricter certifying surgeons, etc., and I threw out the idea of asking you to employ a first class inspector from this country to inquire into the Bombay factory system, and to report to you......I hope that you will see no strong objection to this notion of a visit from one of our Home Office Inspectors. I am naturally anxious not to irritate Bombay employers, but you can hardly realise the strength—I might say the violence—of the currents now racing in the House of Commons on all labour questions, and if anybody were to bethink himself of moving a vote of censure on the Secretary of State and Governor-General in Council for their callous inhumanity to children in Bombay, the said vote might easily be carried by, say, 5 to 1. Pray, rescue me from this black catastrophe if you can, and agree to invite an inspector for a week or two.'

The result of this appeal was the investigation made by the Textile Factories Labour Committee under the Presidency of Sir H. P. Freer-Smith.

prevailing in India, and the observation of the Committee in this respect will supplement the reports recently received from Local Governments on the subject.[1]

'2. The enquiries to be made by the Committee will be directed more particularly towards the settlement of the questions set forth in paragraph 3 below; but they may also put forward recommendations for the amendment of the existing law and practice, if they are of opinion that the present hours of work of operatives are excessive, that the conditions of factory labour are otherwise injurious or oppressive, or that abuses exist in connection with the employment of children or young persons. The Government of India desire that it should be clearly understood that the enquiry now to be held is preliminary only. Should the investigations of the Committee establish the existence of abuses which require to be remedied, a representative Commission will be appointed to consider the whole subject comprehensively before any radical changes in the present factory law are made.

'3. Subject to the provisions of paragraph 2 above, the specific points referred to the Committee are as follows :—

1. Whether the working hours of adult males should be limited, and whether the physique of operatives is affected by long hours.

2. Whether before children are allowed to work in factories certificates of age and fitness should be required.

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[1] In a Despatch No. 59 (Statistics) of 18th July, 1890, the Secretary of State had written to the Government of India, 'It would be extremely desirable that a yearly volume containing a resumé of all factory inspectors' reports should, when the new law is in working order, be published by your Government.' By their circular letter No. 11-861-867 of 30th June, 1892, the Government of India prescribed an annual report on the working of the Factories Act, and requested Local Governments and Administrations to submit their provincial reports on 1st July of each year.

3. Whether the minimum age of children should be raised beyond nine.

4. Whether, as a result of employment as adults of persons between the ages of 12 and 14, there has been physical deterioration requiring the creation by law of a special class of workers known as young persons.

5. Whether a separate staff of Medical Factory Inspectors should be entertained.

4. The Committee will consist of :—

Commander Sir H. P. Freer-Smith, R. N., late Superintending Inspector for Dangerous Trades in England—President.

Lieut.-Col. J. F. MacLaren, M.B., I.M.S., Civil Surgeon, Allahabad, and Dr. J. A. Turner, M.B., D.P.H., Health-Officer, Bombay Municipality—Members.

'The Committee will assemble at Bombay on 21st December and it is anticipated that their report will be submitted to the Government of India in the beginning of April.'

The President of the Committee suggested that the enquiry should be extended so as to include the question of the fencing of dangerous machinery and the Government of India, after communicating by telegram with the Secretary of State for India, indicated that the matter would not be excluded from the scope of the Committee's enquiries.

Before addressing itself to the particular questions set the Committee made certain important general remarks. It felt that, however efficient might be the administration or however well-considered the laws relating to factories, no real or permanent good would follow unless in many instances serious attention was paid to the homes and surroundings of the mill-hands. They felt further that the question of efficient administration was one calling for serious consideration. 'Laws, especially those relating to

labour, may, if inefficiently administered, do little good, indeed, in many cases may do harm. Employees of labour are apt to consider that where there is State intervention they are relieved of their responsibility and that it is the duty of officials to see the law carried out.'[1] Consequently the Committee declared themselves opposed to all legislation of a permissive nature on the questions under consideration. This applied particularly to the regulations regarding the employment of children, certain of which in the Act of 1881 as amended by the Act of 1891 were not positive enough.

The Committee drew attention to the great differences existing in the system of inspection in different parts of the country. In Bombay the office of the Chief Inspector of Factories was held by the Assistant Collector and in 1905 this was held by six separate gentlemen. Each of these also held the office of Assistant Collector and was subject to the control of the Collector of Bombay. There was likewise a First Inspector of Factories appointed by the Government of Bombay. He was an uncovenanted Civil Servant, who had not passed any special technical, or other examination, and whose time was largely taken up by other duties (excise, etc.). There was a Joint Medical Inspector, Personal Assistant to the Surgeon General and there were three Presidency Surgeons *ex-officio* Certifying Factory Surgeons. In the Presidency, inspections were carried out by the Collector and District Magistrate assisted by the Assistant or Deputy Collector and the Special Presidency Inspector or Uncovenanted Civil Servant. In Calcutta the Special Inspector of Factories reported to the Commissioner of Police and appeared to be directly subordinate to him.[2]

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[1] P. 4, Report of Textile Factories Labour Committee of 1906.

[2] In a letter, General Department, Miscellaneous No. 2520, of date 23rd August, 1892, the Secretary to the Government of Bengal wrote as follows to the Secretary

In Madras both the Special and the Medical Inspectors reported to the Sanitary Engineer to Government, while outside the Presidency town the work of inspection fell to various officials, including Civil Servants, both European and Indian. In the Punjab the inspection was done by the Deputy Commissioner or by some one deputed by him. In the United Provinces and in the Central Provinces inspections were carried on by Civil Surgeons, District Officers and the Special Inspector of Factories from Calcutta in the former case, from Bombay in the latter.

In view of such a condition of affairs the recommendations of the Committee were sound and well considered. 'Bearing in mind the ever growing importance of Factory Legislation in India due to the rapid growth of industrial occupations and the absolute necessity of uniformity in administration, the Committee would submit that the working of the Factories Act should be primarily under one official under the Department of Commerce and Industry, that for purposes of inspection carefully considered districts should be placed in charge of competent inspectors, recruited perhaps from the ranks of English Factory Inspectors with a thorough knowledge of the many and varied duties to be performed by an official exercising supervision over a large number of separate and distinct industries, or failing this, applicants for Factory Inspectorships, if entertained in India, should be required to pass a strict qualifying examination and in order to obtain a general knowledge of their duties,

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to the Government of India, Home Department :—'The interests of the workmen are sufficiently protected by the Factories Acts, the more recent of which, Act XI of 1891, has increased the stringency of the legislative provisions regulating the employment of labour. A Special Inspector of Factories has been appointed to see that these provisions are effectually observed, and, as far as Government is concerned, everything that it is possible to do for the textile industry (apart from the regulation of wages) has been done to promote the health, comfort and well-being of the workmen.'

they should be sent to work for a given period under an experienced Inspector in some huge industrial centre in Great Britain.'[1]

With regard to the fifth question put before them, whether a separate staff of Medical Inspectors should be appointed, the Committee were quite agreed on the desirability of such appointments.

'They are of opinion that a number of Medical Officers should be assigned to separate areas, these to depend on the number of works and the facilities for reaching them, and that their whole time should be devoted to the work of Factory Inspection.

'They are of opinion that subject to the Department of Commerce and Industry on all medical questions they should be the supreme authority. The Committee would not advise that the Special Factory Inspectors be released from duties relating to sanitary matters but on these points should take their instructions from the Medical Inspectors and refer to them on all doubtful points.'[2]

Suggestions were made as to the matters over which Medical Inspectors might have supervision. They included water supply, ventilation, temperature and humidity of air, sanitary accommodation, investigations and reports on accidents in conjunction with the Special Factory Inspectors, and the examination of women and children as to their physical fitness for their work. With regard to this last point, so far as it affected children, a question had been put to the Committee. They considered that the existing law relating to certificates of age called for drastic and immediate reform.

'The procuring of these certificates is apparently, as the law stands, purely permissive. In some works they

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[1] P. 5 of Report of Textile Factories Labour Committee of 1906.

[2] P. 6 of Report of Textile Factories Labour Committee of 1906.

are obtained, in others they are not. Some occupiers profess to obtain certificates but they are asked for at uncertain times, it having frequently come to the notice of the Committee that in mills where hundreds of children are employed and where nominally certificates of age were procured, there had been no visit from the Certifying Surgeon for periods varying from several to 18 months, nor had the children been sent to the Surgeon.'[1]

The evident intention of the Government of India in passing the Acts of 1881 and 1891 was that such certificates should be procured, and special forms were drawn up with detailed and full instructions as to how they should be filled in and what use should be made of them. The recommendation of the Committee is contained in the following paragraphs:—

'In the opinion of the Committee the law should require that no child under the age of 14 years *shall* be employed in a factory until he produces a certificate of age from the Certifying Factory Surgeon, a duplicate copy of the certificate to be retained by the employer and a register kept in the prescribed form which should contain all the particulars of the certificate.'[1]

The Committee prepared what they regarded as an adequate form of certificate of age and physical fitness for children.

Proposed form of Certificate.

(In duplicate.)

Factory........................

I..............being a duly appointed Certifying Surgeon under the Indian Factories Acts of 1881 and 1891, hereby declare that I have personally examined the person hereinbelow described and believe......to be of the appropriate age of.........years and that......is not incapa-

[1] P. 7 of Report of Textile Factories Labour Committee of 1906.

citated by disease or bodily infirmity for working daily the time allowed by law for (1) a child or (2) an adult in any factory under the above Acts.

1	2	3	4	5	6	7	8	9	10
Number.	Date.	Name and father's name.	Religion.	Caste.	Residence.	Factory.	Approximate age.	Employment.	Personal marks.

Left thumb
Impression.

(Sd).

Certifying Surgeon.

(See back.)

(Back of Certificate.)

Date on which Certificate No.......belonging to......... was returned by the management of..............works.

Date.	Signature.
1	
2	
3	
4	
5	
6	
7	

The Committee further considered that before employment on full time a medical certificate of age and fitness should be required. To meet objections a wide limit was necessary and they suggested that names of all persons under 16 should be registered.

In the absence of educational facilities for school attendance the Committee did not feel that any service would be done by raising the minimum age for employment for children. They looked, however, to the possibility of the development of education. 'Witnesses, having a wide knowledge of mill life in India, and the habits of the workers, have strongly urged that the law should require the provision of a competent elementary teacher and suitable accommodation for educational purposes in mill premises. It was pointed out that the expense would be very little, about Rs. 15 to Rs. 20 per mensem. It is submitted that this proposal should receive careful consideration. Should such a system be adopted it would seem desirable at a later stage that the minimum age for employment should be raised.'[1]

Turning to the question of the employment of women the Committee considered that, so far as day labour was concerned, there was no call for amendment or alteration in the existing law. But to night labour for women they were totally opposed.

'Where women are employed at night one of two things will happen,—either they will take with them to the works young infants and children who should be in their homes, or the children will be left at home, generally speaking, uncared for. The atmosphere of a mill especially at night, where artificial lighting must be used, is bad both for women and children. In the case of a woman such work will probably in the long run

[1] P. 10, Report of Textile Factories Labour Committee of 1906.

injure her own health and that of her future offspring. Her home will be neglected and she will frequently be called upon to work on household duties in the day after working a whole night in the mill. It is believed that, although temporary inconvenience might follow the prohibition of night work by women, chiefly in Ginning Mills, this would not be felt were reasonable time allowed for occupiers to make other arrangements.'[1]

Hitherto except for the midday stoppage and the weekly holiday adult male labour was unregulated. The Committee, however, advocated further legislative interference. After making due allowance for the numbers of workers employed in Indian mills as compared with those in England, and bearing in mind the habits of the people and the irregular periods of rest which they would insist upon, the Committee expressed itself as of opinion that trade would not be restricted by a requirement that the period of employment in Indian mills, except those working on the shift system, should be fixed either between the hours of 5-30 A.M., and 6 P.M., or 6 A.M. and 6-30 P.M. ; that the engine should cease for half an hour between the hours of 12 noon and 2 P.M. ; that in mills working by day on the shift system the period of employment should be between 5 A.M. and 8 P.M., provided that the actual period of employment for adult males should never in any one day exceed 12 hours and that efficient means were taken to ensure that this restriction was duly observed.

The question of the creation of a class of young persons was another of those referred to this Committee. It considered that the creation of such a separate class would create serious administrative difficulties without attaining the object suggested in the reference.[2]

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[1] P. 11, Report of Textile Factories Labour Committee of 1906.

[2] *Cf.* above p. 82, question 4.

Under Section 18 of Act XV of 1881 as amended by Act XI of 1891 the Local Governments, subject to the control of the Governor-General in Council, were given power to make rules to provide for the adequate ventilation and sanitation of factories. A reference by the Committee to the Resolutions and orders made under this Section showed that the requirements in different parts of India varied widely. They recommended that all requirements should be assimilated and that there should be means of knowing without admissions which could not be used in evidence whether the factories had been lime-washed within the prescribed time. Under the English Factory Act an entry had to be made in the 'general register' giving the date of lime-washing and all particulars. Failing such entry, the onus of proof that the law had been observed, rested with the occupier. The Committee suggested that for India, too, a general register containing all legal particulars relating to Factories, might be kept.

The matters upon which the Textile Factories Labour Committee made recommendations or suggestions are summarised under the following heads:—

1. Improvement of the homes and home surroundings of mill hands.

2. Securing of uniformity of administration of the Factory Act throughout India.

3. Improvement in Inspection.

4. Appointment of Medical Inspectors.

5. Certificates of age and physical fitness for employment to be required prior to half-time employment and prior to employment as an adult.

6. Suggestion regarding education of half-timers.

7. Half-time children to be employed in sets.

8. Prohibition of night work for women.

9. Young children not to accompany parents where there is risk.

10. Period of employment between 5-30 A.M. and 6 P.M., or 6 A.M. and 6-30 P.M. Engine to be stopped for half hour between 12 noon and 2 P.M.—12 hours employment maximum daily for adult males.

11. Names of all persons under 16 to be entered in register but certificates of age and physical fitness to be required only up to 14 years.

12. Testing of samples of air for ventilation.

13. Records of wet and dry bulb thermometers to be kept.

14. Standard of purity for water for moisture to be set.

15. Dates of lime-washing to be entered in a register.

16. Attention to be paid to carrying off of dust.

17. Precautions against anthrax in woollen mills.

18. Latrine accommodation—one seat per 25 employees. Separate urinal accommodation to be provided.

19. Doors to open outwards (safety in case of fire).

20. Attention to be paid to fencing (especially in ginning mills).

CHAPTER V.

THE INDIAN FACTORY LABOUR COMMISSION OF 1908 AND THE ACT OF 1911.

The investigations of the Textile Factories Labour Committee were regarded as of a preliminary character, and as this Committee indicated in its report which had just been considered, that several alterations in the law were necessary, the Secretary of State agreed to appoint a Commission to investigate, in respect of all factories in India, the questions referred to Sir Hamilton Freer-Smith's Committee, and the various suggestions and recommendations which that Committee had made.[1]

The work of this Factory Commission was of a very comprehensive character. In succession it visited and inspected factories and mills at Ahmedabad, Broach, Bombay, Jalgaon, Agra, Aligarh, Hathras, Cawnpore, Lucknow, Calcutta, Dacca, Naraingan], Moulmein,

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[1] *Cf.* Resolution of Government of India, Commerce and Industry Department, No. 8605-8631-32 of 10th October, 1907.

The Commission consisted of :—

President : The Hon'ble Mr. W. T. Morrison, I.C.S., Offg. Member of Council, Bombay.

Members : Mr. W. A. B. Beaumont, Superintending Inspector of Factories, England ; Mr. S. M. Chitnavis, B.A., I.C.S., Deputy Commissioner, Central Provinces ; Lt.-Col. C. Mactaggart, M.A., M.B., I.M.S., Inspector-General of Prisons, United Provinces ; The Hon'ble Mr. Alex McRobert, nominated by the Upper India Chamber of Commerce ; Dr. I. M. Nair, Municipal Commissioner, Madras ; Mr. John Nicoll, nominated by the Bengal Chamber of Commerce ; the Hon'ble Mr. V. D. Thackersey, nominated jointly by the Bombay Chamber of Commerce and the Bombay Mill-owners' Association.

Secretary : Mr. J. Campbell, I.C.S., Under Secretary to the Government of India, Department of Commerce and Industry.

Rangoon, Madras, Sholapur, Akola, Amraoti, Badnera, Pulgaon, Vardha, Hinganghat, Nagpur, Delhi, Amritsar, Dhariwal and Lahore. Two of the members being deputed by the Commission, also visited mills in the Tinnevelly, Trichinopoly and Madura Districts. In consequence of this extensive investigation the Commission in its report laid considerable stress on the importance of its inspection work with regard to the record of which it states.

'It provides a mass of relevant and thoroughly verified facts which must, we consider, form the basis of all proposals of a practical character which may be put forward for the amendment of the existing law : no such material has hitherto been available.'[1]

Section III of the Report deals with the general principles adopted by the Commission in framing recommendation :

'We desire to make it clear that we have proposed no alteration in, or additions to, the present law solely upon theoretical grounds; in all cases where we recommend any alteration our recommendation is based upon the conviction that the change is necessary; in all cases where we recommend a new procedure, we are satisfied that the new procedure is not only necessary but also practically feasible. In framing our recommendations we have also been guided throughout by the consideration that the welfare of India—of Indian operatives and of Indian industries—must be regarded as absolutely paramount.........In particular we would strongly deprecate as most injurious any attempt to apply the laws and regulations governing factory labour in the United Kingdom, as such, to India; or to secure any

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[1] Report of the Indian Factory Labour Commission, 1908 (Cd. 4292 of 1908), p. 5, para. 7.

The inspection notes were printed as an appendix to the Report (Appendix F.)

definite relation between the labour laws of England and of India."[1]

The Commission took up first the consideration of the question of the hours worked in Indian factories. 'Long hours' or 'excessive hours' were held to denote cases where operatives had actually been worked, in any one day, for a period exceeding 12 hours. The expression, 'working hours' or 'hours worked,' applied to the period for which the operative remained on duty, after deducting all intervals of rest of a definitely ascertained character. Excessive hours were found to be worked only in textile factories (that is, in cotton mills and in jute mills in the case of weavers) and in certain seasonal factories where work is carried on at high pressure for a comparatively short period.

As we have seen, the introduction of electric light into textile factories was one of the features of the development which took place after the passing of Act XI of 1891. This naturally made the working of long hours more possible. At the time of the Commission's investigations out of 85 cotton mills on Bombay island, 60 were fitted with electric light installations and in these mills the hours were reported to be, in general, excessive. In Bombay the greater part of this development took place in 1905 when the China and home markets were favourable. The hours there worked were, as a rule, from 5 A.M. to 8 P.M., giving 14½ hours of actual work. In some mills over 15 hours' actual work was done. The Bombay Mill-owners' Association took the matter up and at a meeting in August, 1905, passed a resolution in favour of an average 12 hours' day. After a time of difficulty in which varying practices prevailed matters were finally adjusted, the mills adopting one or other of the

[1] Report cit., p. 5, para. 8.

following systems,—working day-light hours, irrespective of the question whether they had or had not electric light installations, or working an average 13 or 13½ hour day all the year round.

In 1908 the position in the Bengal jute mills was different in so far as, except for weavers, shifts were arranged so that no operative worked more than 11 hours a day.[1] In this connection the Commission noted an important point: 'In the cotton mills of Bengal, as in the jute mills there, the hours of work are largely determined by the fact that, where Bengali workmen are employed, an interval of at least one and a half hours and preferably two hours, must be given in order to enable them to cook their food. Differing in this respect from the operative in the textile centres, they will not eat cooked food brought to the mill.'[1]

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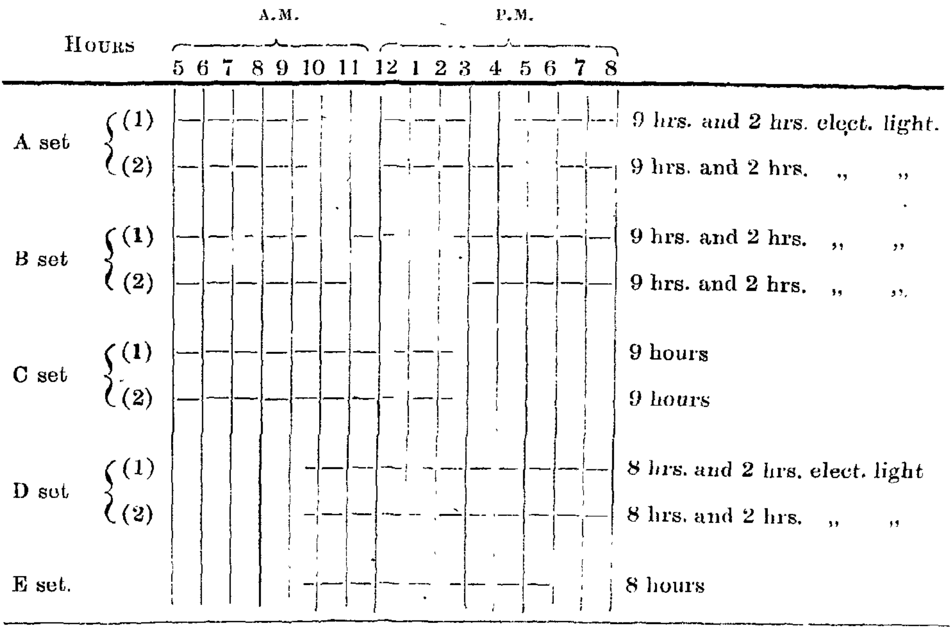
[1] Report cit., para. 11, page 9.

System of shifts, in departments other than weaving and sewing, in a typical jute mill in Bengal in 1908.



The general position with regard to the different centres was thus summarised:—

'In mills working *day-light hours* the average working time for the whole year is approximately 12 hours and 5 minutes; the longest day does not usually exceed 13½ hours' actual work and the shortest day is about 11 hours.

'In the mills fitted with electric light in Bombay island, the hours worked vary from 13 to 13½ a day; in Ahmedabad similar hours are worked, the tendency being to prolong the time if possible. In Broach work occasionally goes on up to 14½ hours a day. The Agra hours are from 13¾ as a minimum to 15¼ as a maximum; in Hathras they are only one hour less. In Lucknow the actual working day is 13¾ hours. In the Calcutta jute mills the weavers are on duty for 15 hours, and this is, in some cases, extended to 15½ to 16 hours. In Sholapur the hours range from 12½ to 13½; in Delhi they are from 13½ to 14½ a day. In Amritsar and Lahore the hours average 13¾ in the hot season and in some cases amount to 13 hours throughout the cold weather.'[1]

Attention was also drawn to excessive hours being worked in such seasonal factories as ginning and rice mills. Many of the former which employ chiefly women come under the Act but it was stated that in factories not under the Act it was a common practice to work women nominally for as long as 18 hours, allowing them to make their own arrangements for relief by other members of their families. The period of pressure probably did not extend beyond a month or a month and a half at the most.

In considering how far the existing Act was ignored or not strictly enforced, the Commission noted that the only restriction imposed on the employment of adult

[1] Report cit., para. 12, p. 11.

males related to the compulsory half hour interval in the middle of the day and the grant of a holiday on Sundays. Cases were referred to in which the former provision was not observed. The general custom, except in Bombay, of calling on operatives, or a certain number of them, to clean machinery on Sunday or on a holiday given in lieu of Sunday [1] was regarded as a breach of the latter provision of the law.[2]

With regard to female labour the Commission stated, 'Experience has shown that the restrictions imposed upon the employment of women by the present Act are suited neither to the operatives themselves, nor to their employers. As a consequence, the provisions of the Act dealing with this subject have been, as a general rule, ignored.'[3] It was noted, for instance, that in Bombay where women were employed in the reeling and winding departments of the mills they came and went as they pleased, and the interval or intervals of 1½ hours prescribed in the case of a full day's work, or the proportionate intervals to be taken in other cases, were found in practice to be too long.[4]

It was in connection with the employment of children, however, that neglect to observe the provisions of the Act was found to be most serious. For instance, in the United Provinces, generally, except Agra, in the Punjab, in Southern Madras, and in the cotton mills of Bengal children had, as a rule, been habitually worked during the whole running hours of the factories, not on the excuse that they were over 14 years of age, but in pure disregard of the law. In other cases by various practices the legal hours of work for children had often been

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1 Act XV of 1881 as modified by Act XI of 1891, Section 5 B (2) (*b*).

2 *Cf.* Section 5 A (2) (*a*).

3 Report cit., para. 17, p. 13.

4 *Cf.* Act XV of 1881 as modified by Act XI of 1891, Section 6 (3).

exceeded. As facilitating such abuse the Commission referred to the practice of having a school for half-timers inside the mill compound.

"In many cases, of course, such schools have been opened with the best of motives, and the growth of abuses in connection with the overworking of the children has been carefully guarded against. But in other cases it is equally true that the so-called school has been used solely for the purpose of retaining the children at the mill during the whole working day, in order that this additional supply of labour might be utilized either as a regular measure, or temporarily when occasion demanded."[1]

Another abuse was the working of children under 9 years of age as half timers, and of children under 14 years as full timers on the excuse that they were over 14. This abuse was common in the cotton mills of Bombay but was evidently worse in the jute mills of Bengal where, on a conservative estimate, the Commission reckoned that the proportion of under-age children employed as half timers was probably about 25 per cent. Other occasional abuses, such as the absence of the midday interval and the employment of children after 8 P.M. were also noted by the Commission.

In Section VI of their Report the Commission devoted itself to a comprehensive survey of the economic position and habits of the Indian mill operative. This Section is important, the more so as the Report was presented as a Parliamentary Paper. The periodic demands for the assimilation of the Indian Factory Law to the corresponding law of the United Kingdom were frequently made in ignorance of, or without sufficient regard being paid to the particular circumstances of industrial labour in India. Only brief reference can be

[1] Report cit., para. 19, p. 15.

made to this part of the Report, but what was stated in 1908 is still in large measure substantially true.

It was pointed out, for instance, that there was practically no factory population, such as existed in European countries. The factory labourer is primarily an agriculturist or a labourer on the land.

'In almost all cases his hereditary occupation is agriculture; his home is in the village from which he comes, not in the city in which he labours; his wife and family ordinarily continue to live in that village; he regularly remits a portion of his wages there; and he returns there periodically to look after his affairs, and to obtain rest after the strain of factory life.'[1]

The element of independence on the part of the Indian labourer herein implied has commonly been associated with a general supply of labour, which, though it has increased tremendously, has seldom been completely adequate for the rapid development of textile industry and which has certainly never shown signs of being redundant.

Another general feature of Indian factory labour noted by the Commission is what may be termed its casualness.

'The Indian factory worker is, in general, incapable of prolonged and intense effort: he may work hard for a comparatively short period, but even in such cases the standard attained is much below what would be expected, in similar circumstances, in any European country. His natural inclination is to spread the work he has to do over a long period of time, working in a leisurely manner throughout, and taking intervals of rest whenever he feels disinclined for further exertion. Meals are generally eaten during the working hours of the factory; the midday interval is sometimes devoted to sleep: and the

[1] Report cit., para. 25, p. 18.

operative leaves his work frequently throughout the day in order to eat, smoke, bathe and so on.'[1]

The Commission was of opinion that such general slackness could be corrected to some extent by the maintenance of proper discipline, and, as an absolute *sine qua non*, by working the factory for reasonable hours only.

One further point may be referred to, namely, the low standard of living among the workers. The standard rises slowly in India and partly perhaps because he has his definite attachment with his village in the country where conservative influences are stronger than in the city, the labourer does not respond as one might expect from European experience to the ordinary economic stimuli.

'A rise of wages in India may actually diminish the labour supply, in the first instance, in place of increasing it. Many employers of labour contend that a rise in wages, by enabling the workers to earn a larger sum in a given time, results in their absenting themselves from work for longer periods; as their wants are few, and not expansive, the only object to which they can in general apply their savings is to support themselves in idleness.'[2]

The direct implication of such a view is not now strictly correct, and it can be said both that the standard of living is certainly rising in India, and that there are definite signs of the development of what, in the European sense, may be termed an industrial population, detached from agriculture and village life.

The investigations of the Commission as to the effects of the conditions of employment on the physique of the workers were, perhaps from the nature of the case, singularly inconclusive but it was recorded of adult males that no physical deterioration was observable anywhere

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[1] Report cit., para. 28, p. 20.

[2] Report cit., para. 28, p. 23.

among the operatives actually at work. Women were also said to be of good physique. The report on the condition of the children employees was not so favourable.

Turning to the definite recommendations of the Commission we find them strongly opposed to any direct limitation of the working hours of adult males, but they indicated the following measures upon which they relied for an indirect limitation of such hours :—

(1) the formation of a 'young persons' class to comprise all young adults between the ages of 14 and 17, with working hours limited to 12 in any one day ;

(2) the reduction of the working hours of children from 7 hours to 6 hours ;

(3) the prohibition of the employment of 'young persons,' women and children before 5-30 A.M. or after 7 P.M. ;

(4) the substitution of a compulsory interval after six hours' continuous work, in place of the present midday interval ; and

(5) the assimilation of the restrictions placed upon the employment of women to those proposed for the 'young persons' class.[1]

The Commission laid stress upon the fact that these measures had not been proposed merely in order to avoid the necessity for the imposition of a direct restriction on the working hours of adult males. That was hoped to be one of the consequences of their adoption but the measures themselves were accepted solely upon their own merits. Allied with these proposals were the suggestions in favour of a uniform 12 hours' day. 'Our observations have satisfied us that the Indian operative is more adaptable than employers of labour in India have hitherto believed ; and we incline to the opinion—though

[1] Report cit., para. 48, p. 33.

we readily admit that we cannot produce any satisfactory statistical evidence likely to convince others—that the general adoption of a 12-hour day in textile factories in India would not materially reduce the output below that at present obtained in 13 hours."[1]

As we have seen throughout the course of the discussions on Factory Legislation, there was one question, *viz.*, that of the creation of a class of 'young persons,' on which opinion had always varied. In the first Draft Bill of the Act of 1881 a distinction was made between children (*i.e.*, under 12 years of age) and 'young persons' (*i.e.*, persons between the ages 12 and 15), the maximum hours of work for the former being 6, for the latter 8 per day. The Select Committee on the Bill abolished this distinction after going fully into the matter. The Bombay Commission of 1884 upheld the principle of recognising no such distinction but recommended raising the minimum age for the employment of children to 9 years. The Factory Commission of 1890 also had the question under consideration and stated as their opinion that if such a class were created between the children half-time workers and the adult full-time workers, it would soon cease to exist as far as factories which did not work on the shift system were concerned. They further renewed the recommendation of the Bombay Commission of 1884 that the upward limit of age for the child employee should be raised to 14 years, a recommendation which was embodied in Act XI of 1891. The terms of reference of the Textile Factories Labour Committee of 1906 included this matter once more. This Committee considered that the creation of a separate class of 'young persons' would give rise to serious administrative difficulties. In addition to all this it is clear that a great amount of the evidence before the

[1] Report cit., para. 57, p. 40.

Commission whose report is now being considered, was opposed to the formation of such a class. In face of all this opposition, however, the Commission recommended the formation of a 'young persons' class and were obviously impressed by the stimulus which such a measure would give for the indirect limitation of the working hours of adult males. They considered in their own defence that the evidence opposed to their suggestion was given subject to misapprehension of their intentions.

'In many cases, when it was explained that the Commission did not contemplate the imposition of such restrictions if the factory affected were limited to a 12 hours day, and when it was made clear that the hours of work would fit in with those which we intended to propose for women and children and with those which we hoped would ultimately be adopted generally for adult male workers, the opposition to the proposal was at once withdrawn.' [1]

The exemption of factories working a 12 hours day from the necessity for registering their 'young persons' and having them certified for age was regarded as taking away the force of the objection on the ground of administrative difficulties. It was considered obvious, too, that a class of operatives working double the hours proposed for children, the same hours as women, and the same hours as the majority of adults, would not be liable to be squeezed out of the ranks of industrial workers.

Accordingly, as has already been noted, the Commission decided to advise that all workers from 14 to 17 years of age should be included within the 'young persons' class.

With regard to the children or half-timer class the suggestion was that the age limits which had been fixed

[1] Report cit., para. 59, p. 41.

in 1891 should remain unaltered. From the evidence before the Commission it appeared that the existing working hours had affected children more severely than any other class, but the remedy was sought rather in a reduction of the number of working hours than in an increase of the age-limit. Accordingly the Commission recommended that children over 9 and under 14 years of age should not be permitted to work on any one day for more than six hours. A twelve-hours day, with at least one interval, was recommended for adult female labour which would thus be under the same conditions as the 'young persons' class. The Commission adduced reasons which led them to propose that no woman, 'young person' or child should be permitted to work except between the hours of 5-30 A.M. and 7 P.M.

'This limitation will, we consider, be effective in checking to a considerable extent the abuses which exist at present owing to the employment of women and children at hours which are not only extremely inconvenient to them, but also injurious to their health. It will protect to some extent all women operatives who have household duties to perform, and will thereby tend to promote the general health of the whole body of workers. And it will also, we anticipate, render work in textile factories more attractive to the protected persons, and so increase the supply of labour. The 1½ hours over and above the 12 hours of actual employment leaves an ample margin for the longest intervals of rest likely to be given in any factory."[1]

It was suggested that exemption from this limitation but not from that fixing the daily hours of work at 12 might be granted in the case of women and 'young persons' employed in cotton ginning factories and in the case of

[1] Report cit., para. 66, p. 47.

'young persons' under exceptional circumstances under permission from the Imperial Government.

In view of the abuse in the employment in factories of children under 9 years of age the Commission was strongly of opinion that no child should be permitted to work in any factory unless certified to be not under the age of 9 years. The certificate of age and physical fitness was to be obtained from a certifying surgeon appointed for this purpose, but to obviate inconvenience to factory owners the provisional certificate of any approved medical practitioner would be recognised until a visit from the certifying surgeon was practicable. Further, it was considered that the certifying of children for factory employment should be regarded as one of the ordinary administrative functions of Government and that accordingly all fees for certificates should be abolished.

The exemption granted under the existing Act to seasonal factories, such as cotton ginning factories, working for less than four months in the whole in any one year was considered unsatisfactory both because of the abuses in such factories and the difficulty of definite interpretation of the law regarding such exemption. Consequently it was proposed that all seasonal factories excluded from the Act solely on the ground that they do not work for more than four months in any one year, should be made subject, to its provisions. This was in line with the suggested amendment of the Government of India in 1905 after it had consulted Local Governments in the matter.

'It will be sufficient to say that the present limitation is indefinite and difficult to work in practice; that it excludes from all control a class of factories where abuses are peculiarly liable to occur; and that our investigations enable us to say positively that the

withdrawal of this limitation will inflict no appreciable hardship upon any industry.'[1] However, in consideration of the special circumstance of the small ginning factories it was recommended that women and 'young persons' might be employed at night, provided their hours of work were not more than 12 in the 24 hours, and that when extra hours were worked in such factories it be reckoned a sufficient compliance with the law limiting the hours of work of women and 'young persons' to 12 in any one day if additional workers were employed to the extent necessary to reduce the hours of work of each woman or 'young person' to not more than 12 hours, assuming that the work, during the total period for which the factory ran, was uniformly distributed among all the workers.

Various minor recommendations were put forward by the Commission. In substitution of the provision under the Act—except where the shift system was in force—for an interval of a full half hour between noon and two o'clock in the afternoon, it was proposed that in all cases there should be a stoppage of work for not less than half an hour, after not more than six hours' continuous working. The important question of education was briefly referred to. The Commission was not of opinion that factory owners should be compelled to provide elementary education for the children employed by them. At the same time, however, they felt strongly that every facility and encouragement should be given to promote the education of children working in factories. In accordance with such a view they proposed that any child of 13 years of age, who could produce a certificate showing that he had passed such educational standard as each Local Government may fix from time to time, should be permitted to work as a 'young person,' if

[1] Report cit., para. 79, p. 53.

certified as physically fit to work 12 hours a day. This proposal was based on a similar concession given under the English law. Other minor suggestions were made with reference to the fixing of standards of purity for air in factories and for water used for humidifying purposes, to a definite scale of latrine accommodation, to the provision of fire exits, to the prohibition of women or female young persons or children in that portion of a cotton press factory in which an opener was at work.

Section XX of the Report is concerned with the administration of the Factory Act. We have already seen how varied were the conditions of inspection throughout India. The Commission was definite in its condemnation of the system.

'When we find in Calcutta, the head-quarters of a special factory inspector, from 30 to 40 per cent. of the children employed half time in jute factories are under the legal age of 9 years, and 25 per cent. of the young full timers are under the legal age of 14 years; that in 17 out of the 29 cotton factories visited by us outside the Bombay Presidency all the children under 14 years of age are regularly worked the same hours as adults; that factory inspectors admit that they knew of the existence of these abuses, and took no step to stop them; and that in many factories the provisions of the law for a midday interval and an entire stoppage of work on Sunday are more or less ignored——it is evident that, except at a few centres, the present system of factory inspection has proved a failure. The reason seems to us to be that Government has not appointed a sufficient number of full-time factory inspectors, and has depended too much on a number of *ex-officio* inspectors who have neither the time nor the special knowledge necessary for the work.'[1]

[1] Report cit., para. 107, p. 66.

Accordingly the Commission regarded it as essential that the staff of full-time inspectors should be increased to a strength sufficient to cope with the work of inspecting all the factories in India.[1] The suggestion was also made that a Chief Inspector of Factories in India be appointed by the Imperial Government, his duties being purely advisory. It was thought that by this means much would be done toward co-ordinating the policy and work of inspection in the different provinces.

When the Report of the Commission of 1908 was submitted to the Government of India it was at once published for criticism and copies of it were sent for opinion to the various Local Governments and Administrations. When the Government had received replies from the Local Governments and other bodies, it submitted to Lord Morley, H. M.'s Secretary of State for India, its recommendations as to what should be done in the way of further Factory Legislation. It may be noted that the replies of the Local Governments were definitely in favour of further legislative regulation. Burmah was an exception but in Burmah textile factories do not exist, and the general character of industry

[1] Province.	Present number.	Proposed number.
Bombay	3	4
Bengal and Eastern Bengal and Assam ...	1	2
United Provinces	...	1
Madras	1	1
Punjab	...	1
Central Provinces	1	1
Burma	...	1

Sir Vithal Damodher Thackersey signed the Report subject to a minute of dissent in which he took exception to the proposals for the institution of a uniform 12-hours day. He advocated what he called the 'natural day,' that is, the working of daylight hours only, and maintained that this was more favoured by manufacturers and operatives alike.

Dr. J. M. Nair did not sign the Report but submitted a separate and comprehensive minute in which he expressed his inability to agree fully with a number of the conclusions reached by the majority of the Commission.

is different from that of the larger provinces of India. One or two Chambers of Commerce also dissented from the proposals for new restrictions. Lord Morley accepted the various recommendations put before him by the Government of India, which immediately set to work on a Bill which was introduced into the Imperial Legislative Council on 30th July, 1909, by the Hon'ble Mr. Harvey.

The matter which had first brought forward once more the question as to whether the restrictions imposed by the Factory Act in India ought not to be carried further was that of the introduction of electric light into textile factories in the 90's and following on that the unfortunate condition of things which arose in Bombay in 1904-05 during a time of trade prosperity. The serious nature of the situation at that time had led to the introduction of a Bill in the Imperial Legislative Council on 29th September, 1905 (No. 10 of 1905) to amend the Factories Act. The object of this Bill was stated to be 'further to amend the Indian Factories Act, 1881 (XV of 1881) so as to secure additional protection for the health and safety of operatives in factories.'[1] The consideration given to the matter was at this time, however, palpably inadequate and further action was postponed pending the recommendations of the Textile Factories Labour Committee of 1906, and then of the Indian Factory Labour Commission of 1908. In 1909, therefore, the first step to be taken was to withdraw the Bill of 1905 and this was accordingly done when the new Factories Bill (No. 3 of 1909) was introduced.

A full statement of the objects and reasons of this Bill was published in the *Gazette of India* of 27th

[1] *Cf. Gazette of India*, Part V, 30th September, 1905, p. 41.

July, 1909,[1] from which the following extracts may be quoted :—

'The object of this Bill is to consolidate and amend the law in India relating to factories. The Indian Factories Acts of 1881 and 1891 will be repealed and the new Act will take their place. The Report submitted by the Factory Labour Commission in 1908 disclosed the existence of abuses in factories, particularly in connection with the employment of children and the length of hours for which the operatives generally were employed. The Commission made proposals with the object of checking these abuses and also submitted proposals for strengthening the law in several points, so that inspection might be more effective and the administration of the law improved. It is now proposed to undertake legislation to give effect to these recommendations in so far as they have been approved by Government. The opportunity has been taken to remodel the framework of the existing law and to redraft several of its provisions.

'2. The report of the Commission showed that excessive hours were not worked except in textile factories. The restrictions which it is considered necessary to impose in the case of textile factories are the following :—

(1) No person shall be actually employed for more than 12 hours in any one day.

(2) No person shall be employed before 5-30 in the morning and after 7 in the evening.

(3) The period for which mechanical power is used shall not in any one day exceed 12 hours.

(4) No child shall be employed for more than 6 hours in any one day.

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[1] *Gazette of India*, Part V, 27th July, 1909, p. 55.

Of the above restrictions the second and third will not apply to any factory in which a system of shifts approved by the inspector is in force, nor to any factory for ginning cotton, or for preparing cotton or jute. Power is also taken to grant exemptions in special cases from restrictions (1), (2), and (3). ....

'3. The existing Act contains no substantive provisions providing for the health and safety of the operatives, except one Section which deals with the fencing of machinery. In accordance with the recommendation of the Factory Labour Commission a number of provisions for securing the health and safety of the operatives have been included in Chapter III of the Bill. These provisions are in some cases borrowed from the English Factory and Workshop Act of 1901, and in others are based on rules which are already in force in several provinces.'

One of the suggestions of the Commission to which the Government of India gave much consideration was that recommending measures whereby an indirect limitation of working hours of adult males might be achieved. The Government came to the conclusion that direct was better than indirect interference. It did not feel that much weight could be laid on English precedent. As the Hon'ble Mr. Harvey said in introducing the Bill in words which seem like an echo from many another debate:

'What we have to consider is not the experience of other countries but the actual conditions of India to-day.'[1] The Local Governments and the various other bodies consulted, objected also to the retrograde step of increasing the working hours of women and the argument of the Commission in favour of the institution of a 'young persons' class was not upheld. The Government of India

[1] *Gazette of India*, July 31, 1909, Part VI, p. 145.

accordingly concluded that the proposals of the Factory Labour Commission would not be sufficient to prevent abuses and therefore incorporated in the Bill, as indicated in the extract from the Statement of Objects and Reasons quoted above, direct provision for the limitation of the hours of all operatives in textile factories.

After being submitted to the Imperial Legislative Council the Bill was printed and published and again circulated to Local Governments in order that it might by them be brought directly to the notice of mill and factory owners throughout the country. As a result of the criticisms, comments and suggestions received the Government of India indicated that it was prepared once more to give the whole matter full consideration, and to make amendments to the Bill along the lines of such suggestions as it could adopt. At the meeting of the Imperial Legislative Council of January 3rd, 1911, therefore, the Hon'ble Mr. Robertson moved on behalf of the Government that the Bill be referred to a Select Committee. While indicating how desirous the Government was of accommodating those who had put forward reasoned criticism of the Bill, he made clear that nothing had been brought to the notice of Government which could lead them to reconsider the decisions already arrived at on important points of principle, such as the proposed restriction of hours of labour of male adults in textile factories. It was, however, against this provision that the main objection of those interested in the textile factories was directed. Arguments of great variety and number were advanced against the proposal—as that it was unnecessary and uncalled for, that it was a serious interference with the rights of adult male labour and an unjustifiable restriction of rights over property; and that the time chosen for such an experiment was unsuitable as the textile industries were in a

depressed condition. It is also of interest to note—of more interest than importance—that the Hon'ble Mr. Dadabhoy in a lengthy speech against the proposal revived the suggestion that any innovation in the way of restriction would be attributed to Manchester influence:

'I fully appreciate the humanitarian motives that have inspired the Bill and no right thinking citizen will impute ungenerous motives to Government; but it must be admitted that the Indian Government which has imposed and maintains a countervailing excise-duty on indigenous cotton goods to propitiate Manchester, cannot reasonably hope to avoid some measure of hostile and unpleasant criticism of its action, and of misinterpretation of its solicitude for the well-being of the labouring classes.' [1]

That some such restriction, however, was both necessary and called for, the investigations of the Factory Labour Commission, even though it favoured indirect rather than direct restriction, made sufficiently clear. And, as has already been noted, the suggestions for the institution of a 'young persons' class once more failed to secure what the Government regarded as sufficient support. As to the argument that the measure invoked serious interference with the rights of adult male labour, it was made clear that the workers themselves had in general expressed the desire that some definite restriction should be placed on their working hours, this being an object which they could not obtain by their own action, as would be the case in countries more advanced. Government further considered that a time when the mills, in their own interests, were working short time, was not an altogether unsuitable opportunity for the introduction of

[1] Gazette of India, Part VI, January 14th, 1911, p. 16.

the proposed measure. In summing up the debate the Hon'ble Mr. Robertson said:

'I would ask the Hon'ble Members who have criticised the principle of this measure, what chance there is of a steady class of mill operatives being built up, if conditions such as the Factory Commission found to exist are not once and for all rendered impossible. The Commission have remarked upon the shifty nature of the factory workers in places where excessive hours are worked. And as time goes on, as other industries develop, it may be expected that mills will find an increasing difficulty in conserving their labour force, unless factory life is rendered attractive. Surely it is not to be to the disadvantage of the mill industry that Government should step in to do what far-seeing factory owners themselves admit to be imperative for the ultimate success of the industry, and that the foundation should be laid for the building up of a highly trained operative class, by the work of whose hands the manufacturing wealth of the country will increase.' [1]

The Bill, as presented by the Government of India, was accordingly referred to a Select Committee and the Report of this Committee with the various amendments it proposed was submitted to the Council of the Governor-General in India for the purpose of making Laws and Regulations on 31st January, 1911. Various minutes of dissent were appended to this Report and in view of the discussion referred to above one of these over the names of six members representative of the textile industries of Bombay and Bengal may be quoted:

"We regret we are unable to accept the clauses in the Bill relating to the restriction of the hours of work of adult male operatives. The principle of such restriction is quite a novel one and has not been recognised in any

[1] Gazette of India, Part VI, January 14, 1911, pp. 30, 31.

part of the British Empire. The Factory Commission of 1908 has emphatically deprecated such restriction. It has shown that there is no necessity for the adoption of such a drastic course, which, in its behalf, would cause the gravest inconvenience to existing industries and would seriously hamper the growth of industrial enterprise."[1]

The Report of the Select Committee was taken into consideration at the meeting of the Legislative Council of 21st March, 1911. Naturally the question referred to in the note of dissent quoted above had once more a prominent place in the discussion. Various amendments with regard to this part of the Bill were put forward with the view of securing practically a twelve hours' working day without involving what was termed 'the objectionable legislative interference with the rights of individuals.' Reference may be made to one such series of amendments moved by the Hon'ble Mr. Birkmyre, representing the jute mill industry of Bengal. His amendments embodied the following proposals: that clauses 28[2] and 31[2] of the Bill which provided for the direct and specific limitation to 12 hours of the working hours of adults in textile factories should be omitted, and that clause 29[2] should be

[1] Gazette of India, Part V, February 4, 1911, p. 68.

[2] Indian Factories Bill (as amended by the Select Committee).

Chapter V. Special provisions for Textile Factories.

Section 28. No person shall be employed in any textile factory for more than 12 hours in any one day.

Section 29. (1) No person shall be employed in any textile factory before half past five o'clock in the morning or after seven o'clock in the evening.

(2) Nothing in sub-section (*1*) shall apply to any person while employed in accordance with a system of shifts approved by the inspector.

Section 31. (*1*) The period for which mechanical or electrical power is used in any textile factory shall not in any one day exceed twelve hours.

(2) Nothing in sub-section (*1*) shall apply to any mechanical power or electrical power while being solely used in aid of the work performed by any person employed in accordance with a system of shifts approved by the inspector.

(3) Nothing in sub-section (*1*) shall apply to any mechanical power or electrical power required in connection with any work specified in sub-section (*1*) of section 30 or in connection with any work which is exempted by the Local Government under sub-section (2) of the same section.

amended so as to limit the factory day to 13 hours instead of 13½ hours. It was intended that the compulsory half hour stoppage after every six hours' working would then secure that not more than 12 hours would be worked in the day. An accompanying proposal was that the hours of children should be extended from 6 to 6½ hours in the day, thereby facilitating working arrangements in those mills which in the shift system should take advantage of the full 13 hours. These proposals, however, did not meet with Government support. It was pointed out that as regards the hours of adult labour in textile factories, the proposed omission of clauses 28 and 31 would make the restriction of hours of labour depend, as regards non-shift factories, on the strict observance of other provisions in the Bill; and as regards multiple shift factories, the omission of clause 28 would make the restriction depend entirely upon the inspector granting or withholding his approval to the system under which the mill was to work. Serious and strong objection was also taken to the proposed increase in the daily working hours of children and the amendments were accordingly withdrawn.

Reference may be made to an amendment of a totally different nature proposed by the Hon'ble Mr. Gokhale to the effect that to the clause dealing with the employment of children the following sub-clauses be added :—

(1) Every factory, in which not more than twenty children between the ages of nine and twelve are employed shall maintain an elementary school in proper condition for their benefit, and attendance at such school for not less than three hours every working day shall be compulsory in the case of each child so employed.

(2) No fees shall be charged for the instruction given in such school.

While very general agreement was expressed in support of the spirit in which this amendment was made, it was considered that the time was not ripe for such a development and that until schemes for compulsory elementary education throughout the country were accepted, it would not be fair to place the burden on factory owners of the education of this special class. This amendment was also, therefore, withdrawn. Several other changes were proposed and discussed and certain of them were adopted, and the Bill, as amended by the Select Committee and by the Council, was passed. It received the assent of the Governor-General on the 24th March, 1911, and was immediately promulgated for general information as the Indian Factories Act, 1911 (Act XII of 1911). It came into force on the first day of July, 1912, and, according to clause 1, extended to the whole of British India, including British Baluchistan and the Santhal Parganas. The idea in delaying the commencement of the Bill till July 1st, 1912, was to give time to such factories as wished to set up electric installations to enable work to be continued till the authorised hour of seven o'clock in the evening on short days, and otherwise to enable factory owners to adapt themselves to the altered circumstances.[1]

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[1] For Act XII of 1911, see Appendix III.

CHAPTER VI

The Indian and British Factory Acts.

The Welfare of the Factory Operative.

The present Indian Factories Act (Act XII of 1911) includes provisions relating to Inspectors and Certifying Surgeons to the health and safety of operatives, to the hours of employment and holidays, to special arrangements for textile factories, to notice and register, to the power of making rules under the Act, and to penalties and procedure under the Act. In addition a number of supplemented provisions are included in Chapter IX. Under the terms of Chapter VII, para. 37, it will be seen that subject to the control of the Governor-General in Council Local Governments have the power to make rules for the purpose of carrying into effect the provisions of the Act. Such rules, of course, vary in the different provinces but the fact that they are made subject to the approval of the Government of India prevents any Local Government from passing such rules as might enable it to neglect the enforcement of any provisions of the Act. Further, similarity was in the first place attained by reason of the fact that the Government of India, before the Act came into operation, circulated to the Local Governments a draft copy of Rules which it suggested might be made under the Act. Under Section 38 (Chapter VII) the Governor-General in Council may from time to time make rules requiring occupiers or managers of factories to furnish such returns, occasional or periodical, as may in his opinion be necessary for the effectual carrying out

of this Act. In accordance with this provision the following rule was made :—[1]

'Every manager of a factory shall furnish to the Inspector of Factories or other officers designated by the Local Government on this behalf the following returns, namely :—

I. On or before the 15th January of each year, an annual return in duplicate in the form set forth in the schedule hereto annexed.

II. Before the end of each calendar month, a return giving notice of all the days on which the factory will be closed during the next ensuing month. This return shall be submitted whether the factory is or is not working during the calendar month preceding the one to which the return relates.'

Schedule

RETURN. No. I.

District.	Place.	Class of factory.	Name of factory.	Name of occupier.	Name of	Hours of starting and stopping work.	Men.	Women.	Boys.	Girl	Whether interval is given after 6 hours' work and if so, time and length of interval or whether factory is worked in accordance with a system of shifts, or whether the factory is exempted from interval, and if so, under what provision of section 31.	Whether holiday is invariably given on Sundays, or weekdays are sometimes substituted or whether factory is exempted, and if so, under what provision of section 22.	REMARKS.
1	2	3	4	5	6	7	8	9	10	11	12	13	14

[1] Notification C. and I. Factories, No. 6750-25, dated 14th September, 1912.

The rules made by the Local Governments under public notification have attained to considerable bulk. For example, they define particularly the duties and work of Inspectors and Certifying Surgeons. They also detail the manner in which the sanitary provisions of the Act are to be carried out, certain special provisions to be made for the fencing of machinery, and the procedure in appeals presented under Section 50 of the Act. The use which has been made of this power to make rules is one feature in which the Indian Factories Act of 1911 differs from the British Act of 1901 upon which it may be said to be in large part based. The latter is, of course, naturally much fuller and more comprehensive. Mr. W. H. C. Prideaux, in the introduction to his 'Guide to the Indian Factories Act, being Act XII of 1911' details the following subjects for which provisions made under the British Act are not made under the Indian Act :—

'(1) None of those relating to workshops, *i.e.*, premises in which no mechanical power is employed ;

(2) None of those relating to the sanitary duties of Local Authorities ;

(3) The regulation of temperature ;

(4) Drainage of floors ;

(5) Power of a Local Authority to make bye-laws for means of escape from fire ;

(6) Power of a Magistrate to make order as to dangerous machinery ;

(7) Power of a Magistrate to make order as to unhealthy or dangerous factory ;

(8) Investigation of accidents by the Certifying Surgeon ;

(9) Special provisions as to inquests in the case of a death by accident in a factory ;

(10) Power to direct formal investigation of accidents;

(11) Certain special provisions as to the employment of protected persons in special trades ;

(12) All provisions relating to young persons ;

(13) The education of children ;

(14) Certain provisions relating to special premises such as tenement factories, humid factories, bake-houses, laundries (now under a special Act at home), docks, buildings and railways ;

(15) All provisions relating to Home-work and 'out-workers,' and,

(16) All provisions relating to particulars, *i.e.*, written information as to piece-work payments.'[1]

Two sections in the Indian Act are original, No. 11 with regard to the sufficient lighting of a factory and No. 14 with regard to the supply of good drinking water.

As we have seen in the framing of the Act of 1911, much discussion centred round the innovation of limiting the hours of work of adult males in textile factories. The Government stood by the principle upon which they had advocated the change and Section 28, Chapter V, whereby it is declared that 'no person shall be employed in any textile factory for more than 12 hours in any one day,' is a feature peculiar to the Indian Act. Allied to this is the general provision of Chapter IV, Section 21, whereby periodical stoppages for not less than half an hour, at intervals not exceeding 6 hours, are required except in certain special cases. These points indicate the main features in which the Factories Acts in the United Kingdom and India differ. The specific determination of the hours of labour in India, not only for the protected classes but also for male adults, is one question round which discussion as to any further changes in the Indian Factories Act will almost certainly centre. If the need for

[1] A Guide to the Indian Factories Act by W. H. C. Prideaux, Introduction, p. xvii.

such discussion should soon become practical, one might expect a reappearance of the plea that India is favoured. An indication of this is obtained from the reports in the Press of the Conference held in April, 1919, between representatives of the jute workers of Dundee and representatives of the Board of Trade, the Ministry of Labour and the India Office. At this Conference Mr. J. F. Sime of the Dundee Jute and Flax Workers' Union is reported to have maintained that the Factory Act should be amended in India so as to bring the conditions into line with those obtaining in the United Kingdom. A question in the House of Commons in March, 1919, made more specific reference to the hours of work of women and children but Mr. Fisher in replying to it said that Mr. Montagu was not aware that the length of hours of work of women and children in textile factories in India was the subject of complaint or agitation among workers. He had received no representation from India on the matter and he did not consider the present time opportune to invite the Government of India to undertake fresh factory legislation. When the Indian Industrial Commission of 1916-1918, under the Presidency of Sir T. H. Holland, was making its enquiries, the subject of factory hours was naturally referred to by a number of witnesses. Typical of one aspect of opinion on the matter are the remarks of Sir Alexander McRobert, Manager of the Cawnpore Woollen Mills Co., Ltd., Cawnpore. In reply to a direct question on the matter he stated, 'I don't think myself that the present hours that the Factory Act permits us to work are too long for the average worker. They would be too long if they worked all the time, but the employee does not work all the time.'[1] The gist of this point of view is, of course, that the nature of the Indian operative is such that the

[1] Indian Industrial Commission, Minutes of Evidence, Vol. I, p. 282.

discipline enforced in factories has to be much slacker than in factories in the United Kingdom, that during working hours a considerable amount of time is wasted by casual absences, and that under a reduction of hours workmen would still waste so much time as to reduce seriously the present rate of production. It resolves itself into a question of the efficiency of the Indian operative and that is a question which has to be tackled from another point of view, for there is abundant evidence to show that even the prospect of earning higher wages is not for many in the factories any incentive or stimulus to work harder. 'All authorities who are qualified to speak on the subject agree that Indian labour is content with a very low standard of comfort. This secured, the Indian workman, speaking generally, takes advantage of the greater earning power given him by increased wages to do less work, and shows no desire to earn more money by working more regularly or by improving his efficiency. In the case of Bombay, witnesses have stated that since the ten per cent. rise in the wages of mill operatives given during the rains of 1917, there has been an actual falling off in output.'[1] The Indian Industrial Commission in their report make the following remarks regarding factory hours[2] :—

'We are hardly in a position to make any definite recommendation regarding the hours of employment, a question which requires far more detailed consideration than we have been able to give to it, but deserves, we think, further examination. In other countries it has been found that a reduction of the number of hours spent inside the factory has been possible, consistently with the employment of the machinery for a longer time by means of the shift system, and that shorter factory

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[1] Report of Indian Industrial Commission, p. 179, Section 235.

[2] *Ibid*, p. 190, Section 252.

hours have exercised an important effect in the direction of improving the standard of living of factory hands, and have helped in diminishing the congestion of labourers' dwellings by giving time for employees to come in from areas situated at a little distance from their work. But further enquiry is necessary to ascertain how far such measures are possible in India; and we recognise that, in any case, until the workers have learned how to use a longer period of leisure more advantageously, such a concession may not be an unmixed benefit.'

In relation to the general question of the administration of the Factories Act it has been recommended by the Indian Industrial Commission that this should be controlled by an Imperial Department, as indeed it is at present, the actual executive work, however, being left entirely to the Local Governments within their areas. At present the administration of the Act is under the control of the Government of India, Department of Commerce and Industry, but the recommendation of the Commission is that a new Department—to be known as the Department of Industries—be constituted and that it take over the control of the Factories Act. In the different provinces there would also be the Departments of Industries, under the scheme, controlled by Directors of Industries who would be responsible for the local administration of the Factories Act.

While then the question of the need for further development in factory legislation in India is an open one, no doubt exists either in the minds of the employees of labour or in the minds of the informed public of the importance of improving the general conditions under which factory operatives live. One of the first matters in this connection is that relating to housing.

In Bombay city owing to the congestion of factory and housing space generally and the continued neglect to

cope adequately with the problem of an increasing industrial community, the conditions are worse than in any other factory centre in India. In the Report of the Indian Industrial Commission the following graphic description is given of the existing state of affairs.

'The worst type of chawl[1] consists of a two-, three-, or four-storeyed building, with single-room units either placed back to back or separated by a narrow gulley two or three feet wide, usually traversed by an open drain. The rooms, especially those on the ground floor, are often pitch dark and possess very little in the way of windows; and even the small openings which exist are closed by the inhabitants in their desire to secure privacy and to avoid the imaginary evils of ventilation. The ground floors are usually damp owing to an insufficient plinth; the courtyards between the buildings are most undesirably narrow and, therefore, receive insufficient sun and air. They are also very dirty. Water arrangements are insufficient and latrine accommodation is bad, though the latter is being steadily improved. A most insanitary smell hangs round these buildings. The rents vary according to the value of the ground, which lies between Rs. 5 and Rs. 30 a square yard. The monthly rent per room is from Rs. 3 to Rs. 7, and the rooms themselves are usually about 10′×10′ with a small verandah in most cases. The share of this rent paid by a particular individual or family is not high in proportion to wages, but even so, the standard of comfort is so low that the overcrowding entailed by taking in boarders or lodgers is readily tolerated for the sake of the contribution to the rent received by them. Villagers, it must be remembered, seldom pay actual house rent, and it is not natural to workers belonging to this class to look on

[1] Workmen's dwellings or tenements.

such payments as a just and necessary form of expenditure..............................

'The chawls of the worst type do not, it would appear, constitute more than ten per cent. of the whole, although many of the remainder are distinctly insanitary.'[1]

Without entering into any detailed consideration of the different aspects of the problem, it is clear that the question of housing for workers in Bombay is acute. Suggestions have been made for the acquisition by the Local Authorities of large areas of suburban agricultural land which could be used for sites for suitable dwellings which could be brought into touch with the mills by an efficient transport service. How to make a workmen's housing scheme in India an economic proposition is a matter for consideration. In this connection the responsibility of employers for the housing conditions of their operatives may be enforced but it is doubtful if it would be wise to compel individual employers to house their own labour when mills are in such close proximity to one another as they are in Bombay. In the case of two mills in Bombay which provide accommodation for their employees, it was reported to the Industrial Commission that only fifty-seven per cent. of the persons using the accommodation worked in those mills. Nevertheless, the collective responsibility of employers for the adequate housing of their labour can be maintained and made effective by the need for their contribution to and co-operation with any scheme which the Local Authorities may decide upon and set up.

In Bengal, in relation to the jute industry, the factories of which are for the most part scattered up and down the river for twenty miles or so on either side of Calcutta, the housing problem is not so acute. Further,

[1] P. 183, Section 241.

it has been more seriously tackled by the individual mill managers or agents. According to the Report of the Chief Inspector of Factories, Bengal, for 1917, out of 84 textile factories in Bengal 74 have quarters for their employees, accommodating about 100,000 persons. Ever since the publication of this Report the development has been considerable. The housing lines constructed by the jute mills vary considerably in character but for the most part are rows of single-storeyed buildings, divided into apartments of one room, frequently with a verandah on one side. Still further development in the direction of adequate housing is both desirable and necessary in view of the large percentage of imported labour employed, and the great pressure on the existing accommodation in many parts. In view of the mobile nature of their native labour individual managers are not, as a rule, willing to set and enforce any minimum standard of accommodation. The Chief Inspector of Factories, Bengal, in a note submitted to the Indian Industrial Commission, declared :—

'Overcrowding exists in nearly all the existing housing accommodation and managers generally complain of the difficulty of enforcing rules respecting the limitation of accommodation. Government should, in cases of buildings erected in the future, enforce a standard of accommodation which should apply to houses owned and controlled by mill-owners or by private individuals in municipal areas. Existing quarters for operatives built on factory lands or in municipal areas have hitherto been erected in accordance with the design most favoured by individual owners or managers, and in some cases with a view to accommodating as many as possible.'

But it is not only in relation to housing that there is room for improving the lot of the factory operative. During the war immense stimulus has been given in the

United Kingdom to the development of what, for want of a better term, is called "welfare work." This development was, in part, determined by the rapid transfer of labour from one centre to another, by the growth of immense new factories for the manufacture of munitions and by the recruitment of women for industrial employment in unprecedented numbers. It was not, of course, an entirely new feature of the industrial situation, for many employers in the United Kingdom had realised, as do many in India, that the payment of wages is not a complete fulfilment of their responsibilities for the welfare of their employees. In considering, however, how the spirit of this great development may be applied to the problems of the industrial situation in India, it is necessary to note, in order to clear away any misapprehension with regard to it, that, whether undertaken by employer or by outside agency, it need be regarded neither as a substitute for the direct obligations which should be enforced by law, nor as a piece of disinterested philanthropy. In a publication of the Ministry of Munitions—"The Health of the Munition Worker" (1917)—(page 109)—it is said of welfare work :—

"It will permanently succeed only in so far as it proves to be of definite benefit to the employer and employed alike, and it will fail in so far as any endeavour is made to conduct it in a spirit of patronage or superficial philanthropy."

Then it is to be assumed that any such work will be based on an adequate wage system. The assumption is sometimes made, from another point of view, that welfare work is done at the expense of the wages. Such an assumption is not well made and though labour in India has not yet achieved the independence of spirit of labour in the West, there is little likelihood of its being any more tolerant of welfare work done at the expense

of its earnings. The argument of facts is, however, all against such an assumption and it has been shown that the general rate of wages in establishments in the West in which welfare work has been developed, is in no way lower than in other establishments. In India the industrial worker, who, as we have seen, maintains his connection with the country and is influenced directly thereby against any such rapid rise of his standard of living as might be expected, is likely to gain very decidedly in general efficiency by any wise endeavour which is made to settle him in one place and to stimulate the advance, moral, physical, and in standard of living, of the community to which he belongs. It is eminently to be desired that the industrial population of the towns should progressively raise its standard of living and of comfort and that in such a matter its progress should not be determined by the more conservative conditions of country life.

One further general point may be noted. It is claimed that welfare work intelligently undertaken is one of the greatest positive forces making for industrial harmony. This is a natural enough result and there is testimony from the West to support it.

In India this is a time when it is necessary to be foreseeing enough to take in hand any measures which may establish on a sure basis of goodwill the relations of employer and employed in order that India's industrial development may not be retarded by disputes, the grounds of which wise action in time would altogether remove.

As we have seen, the classes of labour employed in the factories are children or half-timers (from the age of 9 years to 14 years), women and men. With regard to children the conditions of the problem may be regarded as special. There is obviously great need for the development

of education amongst the half-timers for this would probably help to accomplish, as much as anything else, the attainment of the objects of wider welfare work. The Indian Factory Commission of 1890 in recommending the reduction of the hours of child labour from 9 to $6\frac{3}{4}$ as a maximum per day, considered that such change should be accompanied by the development of a system of elementary education for such half-timers. Some of the mills in Bengal tackled the problem and erected schools, but these were not regarded as a success as they did not attract the mill children but were chiefly attended by the children of the mill babus and clerks, and of shopkeepers. The situation was not materially altered when the Factory Commission of 1908 submitted its report. While this Commission felt that every facility and encouragement should be given to promote the education of children working in factories, they did not consider that factory owners should be compelled to provide elementary education.

"We can see no reason why this particular obligation should be placed upon employers of factory labour only, and we know of no analogous provision in this country which could be cited in support of the proposal. Education is not compulsory in India and the class from which the child workers employed in the factories are drawn does not, as a rule, take advantage of the educational facilities which are at present offered."[1]

As we have seen, this view was endorsed by the Government of India for the amendment to the Factory Bill of 1911, in favour of compulsory elementary education in factories, proposed by Mr. Gokhale, failed to meet with support in the Imperial Legislative Council.

Since 1911 there has been considerable development in the provision of educational facilities for factory children.

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[1] Report of Indian Factory Labour Commission of 1908, p. 59.

A calculation made for certain provinces in 1913 showed that 17 per cent. of the children employed in the factories in these provinces were actually at school, a percentage which is said to compare not unfavourably with the condition of things with regard to children in general throughout India. But until schemes for general compulsory elementary education are developed, Government cannot be expected to take any decided step for the benefit of this special class. At the same time the want of a definite and co-ordinated policy in regard to such localised schemes as have been devised is likely to retard the most beneficial progress.

As typical of what may be done for children and also for adult industrial labourers in this direction the following account may be given of the Buckingham and Carnatic Mills School at Perambur on the outskirts of the city of Madras. These mills are primarily cotton mills where yarn is spun and cloth manufactured. They employ over 10,000 work people. In 1904 a school for half-timers was started in the compound of the Buckingham Mill. The strong objection of the Factory Commission of 1908 to the establishment of any school within the compound walls of a factory, from the view that under such conditions many children might be induced in times of labour difficulty to work more than their legal hours, led to the removal of the school to an adjacent compound. Some years later a more decided step was taken and buildings were erected in a large compound of about 18 acres, which was laid out also with gardens, a playing field, and a gymnasium. The buildings include accommodation for the Principals and staff, the school class-rooms, a drawing class-room, a technical lecture-room, a nursery, sick-room and a kitchen. In addition in a separate open air shed building are workshops for the teaching of elementary carpentry, blacksmith work and tailoring.

In 1912, two European ladies, one a graduate, the other a specialist in Kindergarten studies, were appointed as Joint Principals.

Originally the school provided only for half-timers, but subsequently arrangements were made for continuation classes to enable full-timers to continue the studies which they had begun. A still later development was in the line of night lectures on technical subjects. In an account of this school by Sir Clement Simpson and Miss Pearce, which appears in Pamphlet 2 of the Bureau of Education (1918), it is stated that "the first result of starting the schools appeared to be to foster or to inculcate a scholar's ambition to become a writer in the mill. The prospects of a mill writer are small and the object of the schools being to train workmen, the question arose as to how to turn the boys' ideas to something more useful and industrial. To effect this, small instructional classes of a technical nature were started so that boys might follow their bent when they become full-timers. Happily this has had the desired effect."

The subjects taught in the schools are—reading and writing in vernacular (Tamil, Telugu and Hindustani), English (chiefly conversational), arithmetic, drawing, gardening, hygiene, and practical work in carpentry, blacksmith's work and tailoring. For younger children who are not old enough to be employed the curriculum is simpler. Drill, gymnastics and games are taught to all the children. The instructional classes referred to include (1) Gardening, (2) Washing and ironing clothes, (3) Carpentry, (4) Painting, white-washing and small repairs to the school premises, (5) Blacksmith's work, (6) Tailoring. In the night school the subjects taught include reading and writing in the vernacular, English and arithmetic which are carried up to the 7th standard.

Regarding other night work we may quote again from the account referred to above.

"Technical instruction is given in the theory of spinning, weaving, practical electricity, geometrical drawing, machine drawing and building construction by foremen and draughtsmen from the mills; and every few months an examination is given by the European officers of the respective departments. They thus may note any special men for promotion in the mills and give them better positions on increased pay according to their merits."

Other features of this welfare scheme may be briefly noted. One is the creche in the nursery where babies and small children are left in charge of an ayah, while parents and brothers probably work in the mill. A kitchen has been started where boys may heat up or cook their own food and obtain tea and coffee at cost price. Another recent development was the building in the autumn of 1916 of an institute and library. The institute is available all day for employees off duty, and newspapers, periodicals, indoor games and a gramophone are provided for it. The library contains a stock of books in English and in the vernacular languages.

The paper referred to above, from which the main facts of this account have been taken, indicates that it is difficult to estimate the effect of all this work on the output of the mills.

"They are only boys performing light and necessary but very simple work, but the management of the mills maintain that the school has improved the relations between the general body of the work-people and the employers, while the European officials assert that they can easily pick out the boys attending school from the others by their greater intelligence, brightness and cleanliness."

It may be noted that this scheme is on a purely voluntary basis, yet somewhat more than half of the boys employed in the mills attend the school. But the fact that the Buckingham and Carnatic mills are the only large employers of mill labour in their district has, in a sense, simplified their problem. Where rival mills exist side by side, the element of competition, especially where the labour force is seldom redundant, tends to militate against very pronounced success. This makes the more necessary the consideration of a definite and co-ordinated policy in the carrying out of which different agencies may co-operate. The Industrial Commission express it as their opinion[1] that—

"The first thing to do is to introduce compulsory education in areas where this is possible, applicable to all classes of children, and not merely to those employed in factories. Any consequential amendment of the Factories Act may then be considered."

The question of what can be done for the general welfare of adult operatives, apart from the direct and indirect beneficial results of a sound educational policy, is one which perhaps can only be adequately discussed after more definite attempts have been made than hitherto to promote such welfare. It is in the undertaking of such work that the greatest needs and opportunities will be revealed. But in support of the general observations which have been made above with regard to welfare work, the following statement by the Industrial Commission may be quoted[2]:—

"The problem, not only on moral grounds, but also for economic reasons, must be solved with the least avoidable delay, if the existing and future industries of India are to hold their own against the ever-growing competition

[1] Report of Indian Industrial Commission (1916-18) p. 180.
[2] *Ibid*, p. 179.

which will be still fiercer after the war. No industrial edifice can be permanent which is built on such unsound foundations as those afforded by Indian labour under its present conditions.

"On the other hand, the margin which the efficiency of the Indian mill hand leaves for improvement is so great that if the problem be successfully solved, the advantage to Indian industry should be very marked."

This question of industrial efficiency is definitely bound up with the standard of life of the operative, and the efforts by which it is hoped that the former will be increased will, if wisely directed, accomplish their purpose by raising the latter. As the Indian Factory Labour Commission of 1908 pointed out, the average operative in a textile factory earns more than the amount required to keep himself and his family in the standard of comfort to which they have been accustomed. Partly owing to this fact and partly to the monotonous and wearing life he leads, the operative frequently spends a considerable portion of his earnings on drink. The question of intemperance is a serious one. In mill areas from the facilities which are afforded it is only too easy for the worker to yield to the temptation to drink intoxicating liquors, and one very definite and valuable step which could be taken would be in the way of the provision of counter attractions to the liquor shop. In centres where a larger number of operatives are employed, institutes might be established, the activities of which might be many-sided. An institute might maintain not only a temperance canteen for tea, coffee, aerated waters and light refreshments, but also a library, reading rooms, rooms available for the use of night classes and for indoor games, and a lecture hall which could be used for both serious and light recreation. A cinema would be a most useful possession for such an institute. Much might be done in

the way of popular lectures to stimulate the operative's interest in his factory life and work. And, as the Industrial Commission point out,[1]

"There are many subjects on which the urban working classes require instruction. The rules of health, diet, and sanitation; the care of children; the evils of intemperance; all these are matters which require to be constantly pressed on the attention of operatives."

But such an institute as is here suggested would do still more for the health of the operatives if it could make provision for a gymnasium and a large playing field in which open-air sports and athletics might be actively encouraged.

The provision for the industrial worker of facilities for healthy recreation and opportunities for a useful spending of leisure hours is one direction in which welfare work amongst adults might develop profitably. In another direction there is a great field for the encouragement of thrift and for the stimulation of methods of co-operation. One of the main lines in which co-operation might be directed is that of co-operative stores. This form of non-credit co-operative enterprise is one in which conspicuous success has been attained in the United Kingdom, where co-operative stores cater, in the main part, for the working classes. The beginnings of the movement in England were humble enough, and, in view of its present extent and importance, one looks back with something like wonder to the efforts of the twenty-eight distressed weavers of Lancashire who constituted themselves the Rochdale Society of Equitable Pioneers, and opened a shop with a total capital of £28. But their ideas were both big and practical. Co-operative enterprise has often failed because of the failure of those who have sought to reap its benefits for themselves or others to realise that

[1] Report of Indian Industrial Commission, p. 191.

life must develop from within. The immediate setting down of co-operative stores in mill areas might not be a wise policy until a very considerable amount of preliminary work has been done in fostering and advancing the co-operative idea. The Maclagan Committee on co-operation in India take a thoroughly conservative view in this matter, and consider that, in relation to non-credit co-operation,—

"It is essential that the demand for such societies should arise not merely from external suggestion or the hope of effecting some small economy but from the existence of a real need and from a comprehension on the part of their originators of all that is implied in the term co-operation; and, secondly, it is scarcely less important that a strong and competent staff should be available for the supervision of such societies and for dealing with the complicated economic problems involved."[1]

It is well that such important considerations should be recognised, but in recommending the encouragement of distributive co-operation in mill areas it is assumed that amongst such an industrial population the principles of co-operation would be both soon grasped and firmly maintained, and that from being regarded as a barrier to such development the fluctuating nature of such population would rather tend to be radically altered with the emergence of a new common interest which it was to the profit of all to uphold.

The situation is confessedly more difficult in relation to schemes for credit co-operation, though in certain directions, the need is not the less great. It is maintained that many workers involve themselves in indebtedness from which, largely owing to the methods of their money-lender creditors, they have little hope of recovering. The Servants of India Society in the west of India

[1] Report of Committee on Co-operation in India, 1915, p. 7.

have already done a considerable amount through their Debt Redemption Committee in forming co-operative societies amongst workmen, and have shown how with the aid of outside loans and deposits many of those who have got into the clutches of the money-lender can be set free. In this connection it is interesting to note that the Bombay Provincial Co-operative Conference held at Poona in September, 1917, passed the following resolution regarding the extension of co-operative credit societies to factory workers:—

(*i*) Due efforts should be made to start one or more separate co-operative credit societies for workmen in each factory.

(*ii*) The Registrar may be requested to frame bye-laws for such societies and distribute them broadcast among factory owners and factory workmen.

(*iii*) The factory owners should be induced to afford all facilities in their power to establish such societies.

There are possibilities for the development of co-operation in other directions also, as, for example, along the line of mutual life assurance societies. Reference might also be made to the need for benefit and provident funds in connection with factories and for some common and recognised scheme for the compensation of injuries received by workers. For development in these directions, it is, however, to the employer that we must chiefly look. Sufficient has been said to show how the spirit of co-operation, if rightly appreciated by the industrial worker and wisely applied, may be made to do much towards the betterment and enrichment of his life.

In suggesting education, healthy recreation and co-operation in its different aspects as the main lines along which welfare work amongst the mill operatives in India may be directed it must again be noted that the furthering of welfare work and its ultimate scope will be determined

in large part by the manner in which it is undertaken. Of an approximate industrial population of 10,00,000 in factories coming under the Factories Act, over 200,000 are women and children, and naturally, though their needs may in general be assimilated to those of the male adult population, they have their special features and they ought to be catered for along separate lines.

In conclusion, it may be reiterated that welfare work is ultimately an economic proposition for perhaps only now have we been awakened to the fact of the complete dependence of efficient output on the welfare of the human agent. That may be a positive argument for the undertaking of such work. It may be better regarded as a strong negative argument in its favour. For the one great argument is simply the obligation resting on the employer and finally on the community to ensure to each worker the fullest possibilities of life. Where conditions are such as to work against the fulfilment of such possibilities the obligation of the community becomes the clearer and must be discharged by positive legislation. Welfare work should never be used as a means for retarding wise labour laws. But when Government has gone as far as it can in defining the legal obligation of the employer, there is still a great field in which what is now known as welfare work may be done.

APPENDIX I

The International Labour Conference and the Indian Factory Act

By its adherence to the International Labour Convention, which forms Part XIII of the Treaty of Versailles, India becomes in a more definite way than ever before subject to International criticism in respect of labour conditions in the country. This convention has provided for a permanent organisation, to which all the members of the League of Nations shall belong. This permanent organisation consists of a General Labour Conference of representatives of the members, and an International Labour Office. The League of Nations has for its object the establishment of universal peace. Such peace must be based upon social justice, and, therefore, since conditions of labour exist which involve injustice, hardship, and privation to large numbers of people and tend to produce serious unrest, it was considered necessary, for the purposes of the League of Nations, to have this international organisation. It is international because it was recognised that 'the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries.' [1]

At the same time the High Contracting Parties recognised 'that differences of climate, habits, and customs, of economic opportunity and industrial tradition, make strict uniformity in the conditions of labour difficult of immediate attainment. But, holding as they do, that labour should not be regarded merely as an article of

[1] Section I of International Labour Convention, Part XIII of the Treaty of Versailles.

commerce, they think that there are methods and principles for regulating labour conditions which all industrial communities should endeavour to apply, so far as their special circumstances will permit.' [1]

It was arranged that the first International Labour Conference under the League of Nations should be held at Washington and this Conference met from October 29th to November 29th, 1919. The work for it was prepared by an International Organising Committee, and the Agenda, printed as an Annex to Section I of Part XIII of the Treaty of Versailles, was as follows:—

1. Application of the principle of the 8 hours day or of the 48 hours week.

2. Question of preventing or providing against unemployment.

3. Women's employment:
   (*a*) Before and after child-birth, including the question of maternity benefit;
   (*b*) During the night;
   (*c*) In unhealthy processes.

4. Employment of children:
   (*a*) Minimum age of employment;
   (*b*) During the night;
   (*c*) In unhealthy processes.

5. Extension and application of the International Conventions adopted at Berne in 1906 on the prohibition of night work for women employed in industry and the prohibition of the use of white phosphorus in the manufacture of matches.

From India four delegates were sent to the International Conference—two by the Government, Mr. L. J. Kershaw and Mr. A. C. Chatterjee; one as representing employers of labour, Mr. A. R. Murray; and one as

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[1] Section II, Article 427, of International Labour Convention.

representative of the workers, Mr. N M. Joshi of the Social Service League, Bombay.

The first important matter discussed was the Draft Convention limiting the hours of work in industrial undertakings to 8 in the day and 48 in the week. India, Persia, Siam, and China were regarded as special cases to be treated separately. Article 10 of the Convention defines the position of India in the matter. It is as follows :—

'In British India the principle of a sixty-hour week shall be adopted for all workers in the industries at present covered by the factory acts administered by the Government of India, in mines, and in such branches of railway work as shall be specified for this purpose by the competent authority. Any modification of this limitation made by the competent authority shall be subject to the provisions of Articles 6 and 7 of this Convention. In other respects the provisions of this Convention shall not apply to India, but further provisions limiting the hours of work in India shall be considered at a future meeting of the General Conference.'

As a signatory and member of the League of Nations India is committed to the agreements reached by the International Conference to the extent that these must be brought before 'the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.' If the Conventions fail to obtain legislative sanction nothing further can be done for the time. It is clear that the principle of a 60 hours maximum working week in factories in India is quite new and will involve considerable rearrangements in industries where adult males are worked the 12 hours, and adult females the 11 hours permitted by the present Act. The linking of mines with other industries is likewise an innovation.

The Draft Convention regarding the employment of women during the night, superseding the Berne Convention of 1906 referred to in the Agenda of the Conference, provides that women shall not be employed during the night in any public or private industrial undertaking,—night here signifying a period of at least 11 consecutive hours including the interval between 10 o'clock in the evening and 5 o'clock in the morning. Article 7 of this Convention declares—

'In countries where the climate renders work by day particularly trying to the health, the night may be shorter than prescribed in the above articles, provided that compensatory rest is accorded during the day.'

In India, as we have seen, the Factory Act prohibits the employment of women in factories between the hours of 7 P.M. and 5-30 A.M. so that this Convention involves no change.

The Draft Conventions regarding the employment of children are most important from India's point of view. Article 2 of the Draft Convention fixing the minimum age for the admission of children to industrial employment is as follows:—

'Children under the age of fourteen years shall not be employed or work in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.'

Article 6 makes a special case of India—

'The provisions of Article 2 shall not apply to India, but in India children under twelve years of age shall not be employed,

'(*a*) In manufactories working with power and employing more than ten persons;

'(*b*) In mines, quarries, and other works for the extraction of minerals from the earth;

'(c) In the transport of passengers or goods, or mails, by rail, or in the handling of goods at docks, quays, and wharves, but excluding transport by hand.'

It is clear that the ratification of this Convention involves a very big change in present conditions, for not only does it mean an increase in the minimum age at which a child may be industrially employed, but also a great extension in the present definition of a factory.

The question of the employment of young persons at night does not affect the Indian situation so seriously. The important point of Article 2 of this Convention is—

'Young persons under eighteen years of age shall not be employed during the night in any public or private industrial undertaking.'

Article 6 deals with the special case of India—

'In the application of this Convention to India, the term "industrial undertakings" shall include only "factories" as defined in the Indian Factory Act, and Article 2 shall not apply to male young persons over fourteen years of age.'

As the definition of a child in the Indian Factory Act is a person who is under the age of fourteen years, and as that Act prohibits night work for children, no change is involved in the adoption of this Convention

Such are the main Conventions of the International Conference which affect India, and they may be looked upon as the international demand upon India for the provision of labour conditions in industry which shall make for the peace and welfare of a constantly growing industrial community.

Along with this should be noted the serious appearance of a comparatively new feature in the industrial situation—namely, widespread labour unrest. The great increase in prices or the fact that increases in wages have not corresponded with the rise in the cost of

living, is put down as the chief cause of this. In the Gazette of India for April 3rd, 1920, appears a statement with regard to labour strikes, 'which have recently taken place in India.' The period thus vaguely stated covers only a few months. Altogether 86 strikes are mentioned. Of these 28 involved in each case more than 1,000 workers, and a total of 286,027 workers. In most of these cases the strike resulted in an increase of wages or allowances, or in the payment of a bonus. This brief reference is made to these labour troubles because amongst the demands formulated by the workers in certain cases have been those for shorter hours. In the great cotton mill strike in Bombay in January, 1920, in addition to asking for an all-round permanent rise of 50 per cent. in wages and a grain allowance of 35 per cent. owing to the rise in the price of food-stuffs, the reduction of working hours per day from 12 to 10, in the case of adult males, was demanded. There is little doubt that in adopting this latter position the strikers, through their advisers, were affected by the reports they had read or had had recounted to them from the Vernacular Press of the decisions of the International Labour Conference. Though industrial labour in India is not yet sufficiently organised to make adequate negotiation in its own interests, there is little doubt that its opinion, as expressed by those who lead it and profess to speak its mind, will reinforce strongly any proposal for the ratification of the Draft Conventions of the International Conference.

It is further worthy of note that apart from the recommendations of the Conference the Government of India, as a result of the Report of the Industrial Commission, have been endeavouring to elicit opinions from the various Local Governments with regard to the need for a revision of the Indian Factories Act of 1911.

The following extracts from the Government's circular letter indicate the information which they seek to obtain.

'I am directed to invite your attention to paragraph 252 of the Industrial Commission's Report, in which they state their views in regard to the question of hours of labour in factories in India. This paragraph should be read with other passages of the Commission's Report, especially their remarks in Chapter II regarding labour in the various mills, in paragraph 142 on the necessity of primary education among the labouring classes, in paragraph 149 regarding the position and prospects of skilled artisans, in paragraphs 235 and 236 on the effects of the low standard of comfort of factory labour on its efficiency, and in paragraph 254 on welfare work among factory workers. The effect of the complete picture drawn by the Commission is disquieting. There is a keen and increasing demand for factory labour, but little apparent desire on the part of labourers to increase their efficiency and little prospect of their being able to do so under present conditions. The pressing problem of housing, which is under separate consideration, is becoming acute in some of the most important areas. Labour is growing more conscious of its own wants and power; it is showing signs of a capacity for organisation; and is generally unsettled. Industrial India, as the Commission points out, will have to face more intense foreign competition than before the war, and it is incumbent alike on the Government and on employers to examine the position, and to decide, as soon as possible, on a remedial policy.'[1]

[1] Quoted by Sir Thomas Holland in a speech in the Imperial Legislative Council, 19th February, 1920, *cf.* Gazette of India, March 6th, 1920, Part VI, page 224.

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The Indian Factories Act, 1881

(Act No. XV of 1881)

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....

An Act to regulate labour in Factories.

Preamble.

Whereas it is expedient to regulate labour in factories, it is hereby enacted as follows :—

Preliminary.

Short title. Local extent. Commencement.

1. This Act may be called "The Indian Factories Act, 1881." It applies to the whole of British India and shall come into force on the first day of July, 1881.

Interpretation clause.

2. In this Act unless there is something repugnant in the subject or context,—

"Factory."

"factory" means any premises (other than indigo-factories or premises situated on, and used solely for the purposes of, a tea or coffee plantation) wherein is carried on, for not less than four months in the whole in any one year, any process for, or incidental to, making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, transport, or sale, any article or part of an article; and

(*a*) wherein steam, water or other mechanical power is used in aid of any such process; and

(*b*) wherein not less than one hundred persons are on any day simultaneously employed in any manual labour in, or incidental to, any such process; and

every part of a factory shall be deemed to be a factory, except any part used exclusively as a dwelling.

"Child." "Child" means a person under the age of twelve years.

"Mill-gearing." "Mill-gearing" includes every shaft, whether upright, oblique or horizontal, and every wheel, drum, pulley, rope, driving strap or band, by which the motion of the first moving power is communicated to any machine.

"Employed." A child who works in a factory, whether for wages or not, either in a manufacturing process or handicraft, or in cleaning any part of the factory used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to, or connected with the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process or handicraft therein, shall be deemed to be employed therein within the meaning of this Act.

Inspectors and Certifying Surgeons.

Inspectors. 3. The Local Government may in its discretion, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors of factories within such local limits as it may assign to such Inspectors, and may suspend or dismiss any person so appointed.

In default of such appointment, the Magistrate of the district shall, in virtue of his office, be Inspector of all factories (if any) in the District.

Such Inspectors shall be deemed public servants within the meaning of the Indian Penal Code; and shall be officially subordinate to such authority as the Local Government may, from time to time, indicate in this behalf.

Powers of Inspector.

4. An Inspector of factories may, within the local limits for which he is appointed,

(*a*) enter, with such assistants (if any) as he thinks fit, any factory whenever he has reason to believe that any person is employed therein;

(*b*) make such examination of the premises and machinery, and of the registers hereinafter prescribed, and take on the spot or otherwise such evidence of any person as such Inspector may deem necessary for carrying out the provisions of this Act;

(*c*) order that any person shall not be employed in a factory when he has reason to believe that such employment would be in contravention of this Act—

until the age of such person has been certified, in the manner hereinafter provided, to be above seven years; or

for more than the time allowed by this Act for the employment of children, until his age has been so certified to be above twelve years.

Certifying Surgeons.

5. The Civil Surgeon or such other person practising medicine or surgery as the Local Government may, from time to time, appoint in this behalf for any local area (hereinafter called the Certifying Surgeon) shall, at the request of any person employed or desirous of being employed in a factory situate in such local area, or of the parent or guardian of such person, examine such person and grant him a certificate, stating whether his age, as nearly as it can

be ascertained from such examination, is above or below seven years, or twelve years, as the case may be.

Children.

Age of employment.

6. No child shall be employed in any factory, if he is under the age of seven years.

Hour of employment for children.

7. No child shall be actually employed in any factory more than nine hours in any one day.

And no child shall be employed in any factory on any day without an interval, or intervals, amounting in the whole to at least an hour, being allowed to him for food and rest.

The times at which such intervals shall be allowed, and the length of each interval, shall be fixed by the Local Government for each factory, after ascertaining, as far as possible, the existing practice in such factory and the wishes of the occupier thereof.

The occupier shall set up and maintain, in some conspicuous place in the factory, a printed or written notice, in English and the languages of the District in which the factory is situate, showing the times at which such intervals shall be allowed and the length of each interval.

A child shall not be deemed to be employed within the meaning of the first clause of this section during any interval allowed for food or rest.

Child to be allowed holidays.

8. Every occupier of a factory in which children are employed shall, before the beginning of each month, fix not less than four days in each month on which no child shall be employed in such factory, and shall forthwith give notice of the days so fixed to such officer as the Local

Government may, from time to time appoint in this behalf.

An occupier of a factory may, with the previous sanction of the Inspector, substitute, for any day fixed under this section, another day in the same month.

No child shall be employed in such factory on a day fixed under this section, unless when another day has been substituted for such day as hereinbefore provided, in which event no child shall be employed in such factory on the day so substituted.

Not to be employed in two factories on same day.

9. No occupier of a factory shall employ therein on any day any child who has to his knowledge already been employed on the same day in any other factory.

Not to be engaged in certain dangerous work.

10. No occupier of a factory shall allow any child to clean any part of the mill-gearing or machinery of such factory while the same is in motion, or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of the steam-engine, water-wheel, or other mechanical power, as the case may be.

Register of children in a factory.

11. The Local Government may direct any occupier of a factory to keep, in such form and with such particulars as such Government may, from time to time, prescribe, registers of the children (if any) employed in such factory, and of their respective employments.

Fencing.

Fencing.

12. (*a*) Every fly-wheel directly connected with a steam-engine, or water-wheel, or other mechanical power in any part of a factory, and every part of a steam-engine or water-wheel,

(*b*) every hoist or teagle near which any person is liable to pass or be employed, and

(*c*) every other part of the machinery or mill-gearing of a factory which may, in the opinion of the Local Inspector, be dangerous if left unfenced, and which he may have ordered to be fenced,

shall, while the same is in motion, be kept by the occupier of such factory securely fenced.

Any order under clause (*c*) may be set aside, on appeal or otherwise, by the Local Government or such authority as it may appoint in this behalf.

Notices.

Notice to be given of accidents.

13. When any accident occurs in a factory causing death or bodily injury whereby the person injured is prevented from returning to his work in the factory during forty-eight hours after the occurrence of the accident, the occupier of such factory or in his absence his principal agent in the management of such factory shall send such notice of such accident to such authorities in such form as the Local Government may, from time to time, by rule direct.

Person beginning to occupy factory to give notice.

14. Every person shall, within one month after he begins to occupy a factory, send to the local Inspector a written notice containing the name of the factory, the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work performed in such factory, the nature and amount of the moving power therein, and the name of the person (if any) under whom the business of the factory is to be carried on.

Penalties.

15. Any person who, in breach of this Act, or of any order or rule made hereunder—

Penalties.

(*a*) employs any child in any factory;

(*b*) neglects to set up or maintain the notice required by section seven or to fix the days referred to in section eight;

(*c*) allows any child to perform the work forbidden by, or to work in contravention of, section ten;

(*d*) neglects to keep a register in manner prescribed under section eleven;

(*e*) neglects to fence any machinery or mill-gearing in any factory; or

(*f*) neglects to give any notice,

shall be punished with fine which may extend to two hundred rupees;

Provided that—

1st, no prosecution under this section shall be instituted except by, or with the previous sanction of, the local Inspector; and

2nd, no person shall be liable under this section to more than one penalty for any one description of offence committed on the same day, except where two or more children are employed contrary to the provisions of this Act in which case one penalty may be imposed in respect of each child so employed.

Only one penalty for same kind of offence on one day.

16. Where an Act or omission would, if a person were under seven or twelve years of age, be an offence punishable under this Act, and such person is, in the opinion of the Court, apparently under such age, it shall lie on the accused to prove that such person is not under such age.

Burden of proof as to age.

Certifying Surgeon's declaration in writing.

A declaration in writing by a Certifying Surgeon that he has personally examined a person employed in a factory, and believes him to be under or over the age set forth in such declaration, shall, for the purposes of this Act, be admissible as evidence of the age of that person.

Occupier primarily liable for breaches of Act.

17. Every occupier of a factory shall be deemed primarily liable for any breach therein of the provisions of this Act; but he may discharge himself from such liability by proof to the satisfaction of the local Inspector before prosecution therefor, that such breach was committed by some other person without his knowledge or consent; and the person committing such breach shall be liable therefor.

Miscellaneous.

Power to make rules.

18. The Local Government may, from time to time, make rules consistent with this Act to provide for—

(*a*) the fencing of machinery and mill-gearing in factories;

(*b*) the inspection of factories;

(*c*) the manner in which appeals under this Act shall be presented and heard; and

(*d*) otherwise carrying out the provisions of this Act.

Such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Crown factories.

19. This Act shall apply to factories belonging to the Crown; provided that, in case of any public emergency, the Governor General in Council or the Local Government may, by an order in writing, exempt any such factory from this Act to such extent and during such period as the Governor General in Council or the Local Government, as the case may be, thinks fit.

APPENDIX III

The Indian Factories Act, 1911 (XII of 1911)

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SCHEDULES.

ACT No. XII OF 1911

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

(Received the assent of the Governor General on the 24th March, 1911.)

An Act to consolidate and amend the law regulating labour in factories.

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, commencement and extent.

1. (*1*) This Act may be called the Indian Factories Act, 1911.

(*2*) It shall come into force on the first day of J ly, 1912; and

(*3*) It extends to the whole of British India, including British Beluchistan and the Sonthal Parganas.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

"Child."

(*1*) "child" means a person who is under the age of fourteen years:

"Employed."

(*2*) a person who works in a factory, whether for wages or not,—

(*a*) in a manufacturing process or handicraft, or

(*b*) in cleaning any part of the factory used for any manufacturing process or handicraft, or

(*c*) in cleaning or oiling any part of the machinery, or

(*d*) in any other kind of work whatsoever, incidental to, or connected with, the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process of handicraft therein, shall be deemed to be employed therein :

Explanation.—The term "manufacturing process" shall be deemed to include the baling of any material for transport :

(*3*) "factory" means any premises wherein, or within the precincts of which, system, water or other mechanical power or electrical power is used in aid of any process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale any article or part of an article : "Factory."

(*4*) "inspector" includes an additional inspector : "Inspector."

(*5*) "mill-gearing" includes every shaft, whether upright, oblique or horizontal, and every wheel, drum, pulley, rope, chain, wire, drying strap or band by which the motion of the first moving power is communicated to any machine appertaining to any manufacturing process : "Mill-gearing."

(*6*) "occupier" includes a managing agent or other person authorised to represent the occupier : "Occupier."

(*7*) "prescribed" means prescribed by this Act or by rules made thereunder : "Prescribed."

"System of shifts."

(8) "system of shifts" means a system of relays in which the time of the beginning and ending of the period or periods of the employment of each person is fixed for each relay:

"Textile factory."

(9) "textile factory" means a factory wherein is carried on any process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale cotton, wool, hair, silk, flax, hemp, jute, tow, china-grass, cocoanut fibre or other like material, either separately or mixed together or mixed with any other material, or any fabric made thereof:

Provided that the term "textile factory" shall not be deemed to include the following factories, namely:—cloth-printing works, bleaching and dyeing works, lace warehouses, paper mills, flax scutch mills, silk filatures, factories for ginning cotton, decorticating fibre, pressing cotton, jute or other fibre, rope works and hat works.

Application of Act.

3. (1) Nothing in the following chapters shall apply to—

VIII of 1901.

(a) any mine subject to the operation of the Indian Mines Act, 1901, or

(b) any electrical generating or transforming station, or

(c) any indigo factory, or

(d) any factory situated on and used solely for the purposes of a tea or coffee plantation, or

(e) any factory wherein on no day in the year are more than forty-nine persons simultaneously employed:

Provided that the Local Government may, subject to the control of the Governor General

in Council, by notification in the local official Gazette, apply to any factory or class of factories, wherein any specified number of persons, not being less than twenty, are on any day simultaneously employed, all or any of the provisions of this Act which would, save for clause (*e*) of this sub-section, have applied.

(*2*) The provisions of Chapters IV and V and sections 35 and 36 shall not, unless the Local Government by order in writing otherwise directs, apply to any person employed solely in any place within the precincts of a factory, not being a cotton reeling-room or winding-room in which place no steam, water or other mechanical power or electrical power is used in aid of the manufacturing process carried on in such factory, or in which such power is used solely for the purpose of moving or working any appliances in connection with the bringing or taking of any goods into or out of the factory.

CHAPTER II.

INSPECTORS AND CERTIFYING SURGEONS.

4. (*1*) The Local Government may, by notification in the local official Gazette, appoint such persons as it thinks fit to be inspectors of factories within such local limits as it may assign to them respectively. Inspectors.

(*2*) No person shall be appointed to be an inspector under sub-section (*1*), or having been so appointed, shall continue to hold the office of inspector, who is or becomes directly or

indirectly interested in a factory or in any process or business carried on therein or any patent or machinery connected therewith.

(*3*) The District Magistrate shall be an inspector under this Act.

(*4*) The Local Government may also, by notification as aforesaid, and subject to the control of the Governor General in Council, appoint such public officers as it thinks fit to be additional inspectors for all or any of the purposes of this Act within such local limits as it may assign to them respectively.

(*5*) In any area where there are more inspectors than one, the Local Government may, by notification as aforesaid, declare the powers which such inspectors shall respectively exercise, and the inspectors to whom the prescribed notices are to be sent.

(*6*) Every inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code and shall be officially subordinate to such authority as the Local Government may indicate in this behalf.

Powers of inspector.

5. Subject to any rules in this behalf, an inspector may, within the local limits for which he is appointed,—

(*a*) enter, with such asisstants (if any) as he thinks fit, any place which is, or which he has reason to believe to be, used as a factory;

(*b*) make such examination of the premises and machinery and of any prescribed registers, and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Act; and

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

6. The Local Government may appoint such qualified medical practitioners as it thinks fit to be certifying surgeons for the purposes of this Act within such local limits as it may assign to them respectively. Certifying surgeons.

7. (1) A certifying surgeon shall, at the request of any person desirous of being employed in a factory situated within the local limits for which he is appointed, or of the parent or guardian of such person, or of the manager of the factory in which such person desires to be employed, examine such person and grant him a certificate in the prescribed form, stating his age, as nearly as it can be ascertained from such examination, and whether he is fit for employment in a factory. Grant of certificate.

(2) Where a certifying surgeon refuses to certify that a person is fit for employment in a factory, he shall, if required by such person, or his parent or guardian, or the manager of the factory in which such person desires to be employed, state in writing his reasons for such refusal.

8. A certifying surgeon may authorize any person practising medicine or surgery to exercise the functions assigned to him by section 7, and may revoke such authority: Delegation of certifying surgeon's functions.

Provided that no certificate granted under this section shall unless confirmed, on personal

examination of the person named therein, by the certifying surgeon who conferred the authority, be valid after the first date subsequent to the grant thereof on which such certifying surgeon visits the factory in which the person named therein is employed.

CHAPTER III.

Health and Safety.

Sanitary provisions.

9. The following provisions shall apply to every factory:—

(*a*) it shall be kept clean, and free from effluvia arising from any drain, privy or other nuisance;

(*b*) it shall not be so overcrowded while work is carried on therein as to be dangerous or injurious to the health of the persons employed therein;

(*c*) it shall be ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust or other impurities generated in the course of the work carried on therein that may be injurious to health.

Provision as to ventilation by fans in certain factories.

10. If in a factory, in which any process is carried on by which dust or other impurity is generated and inhaled by the workers to an injurious extent, it appears to the inspector that such inhalation could be to a great extent prevented by the use of a fan or to other mechanical means, the inspector may serve on the manager of the factory an order in writing, directing that a fan or other mechanical means

of a proper construction for preventing such inhalation be provided, maintained and used before a specified date.

11. (*1*) Every factory shall be sufficiently lighted. **Lighting.**

(*2*) In the case of any factory which is not in the opinion of the inspector so lighted, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for the attainment of a sufficient standard of lighting, and requiring him to carry them out before a specified date.

12. (*1*) In any factory in which humidity of the atmosphere is produced by artificial means, the water used for the purpose of producing humidity shall be taken either from a public supply of drinking water or from some other source of water ordinarily used for drinking, or shall be effectively purified before being used for the purpose of producing humidity. **Purity of water used for humidifying.**

(*2*) In the case of any factory in which any water required under sub-section (*1*) to be effectively purified is not in the opinion of the inspector so purified, the inspector may serve on the manager of the factory an order in writing specifying the measures which he considers necessary for effectively purifying the water and requiring him to carry them out before a specified date.

13. Every factory shall be provided with sufficient and suitable latrine accommodation, and if the Local Government so requires, with separate urinal accommodation for the persons employed in the factory : **Provision of latrines and urinal accommodation.**

Provided that the inspector may, subject to such conditions as the Local Government may lay down in this behalf, by an order in writing exempt any factory from the provisions of this section.

Water-supply.

14. In every factory there shall be maintained a sufficient and suitable supply of water fit for drinking for the use of the persons employed in the factory.

Doors of factory to open outwards.

15. In every factory, the construction of which is commenced after the commencement of this Act, the doors of each room in which more than thirty persons are employed shall, except in the case of sliding doors, be constructed so as to open outwards.

Provision of means for escape in case of fire.

16. (*1*) Every factory shall be provided with such means of escape in case of fire for the persons employed therein as can reasonably be required in the circumstances of each case.

(*2*) In the case of any factory which is not in the opinion of the inspector so provided, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for providing such means of escape, and requiring him to carry them out before a specified date.

Precautions against fire.

17. No person shall smoke, or use a naked light or cause or permit any such light to be used, in the immediate vicinity of any inflammable material in any factory.

Fencing.

18. (*1*) (*a*) Every fly-wheel directly connected with a steam-engine, water-wheel or other mechanical power or electrical power in any part of the factory and every part of any

water-wheel or engine worked by any such power,

(*b*) every hoist or teagle and every hoist-well, trap-door or other similar opening near which any person is liable to pass or be employed, and

(*c*) every part of the machinery which the Local Government may by rule require to be kept fenced, shall be securely fenced.

(*2*) If in any factory there is any other part of the machinery or mill-gearing which may in the opinion of the inspector be dangerous if left unfenced the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for fencing such part in order to remove the danger, and requiring him to carry them out before a specified date.

(*3*) All fencing must be constantly maintained in an efficient state while the parts required to be fenced are in motion or use, except where they are under repair or are under examination in connection with repair or are necessarily exposed for the purpose of cleaning or lubricating or for altering the gearing or arrangements of the parts of the machinery.

(*4*) Such provision as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery or boilers of any factory.

Prohibition of employment of women and children in certain dangerous work.

19. No woman or child shall be allowed to clean any part of the mill-gearing or machinery of a factory while the same is in motion by the action of steam, water or other mechanical power or electrical power, as the case may be, or to

work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of any power above described.

Prohibition of employment of women and children where cotton-openers are at work.

20. No woman or child shall be employed in the part of a factory for pressing cotton in which a cotton-opener is at work:

Provided that, if the feed-end of a cotton-opener is in a room separated from the delivery-end by a partition extending from the floor to the roof, women and children may be employed in the room in which the feed-end is situated.

CHAPTER IV.

Hours of Employment and Holidays.

Periodical stoppage of work.

21. (*1*) In every factory there shall be fixed for each working day, at intervals not exceeding six hours, periods of not less than half an hour, during which all works shall be discontinued.

(*2*) Nothing in sub-section (*1*) shall apply to—

(*a*) any work performed by any person while employed in accordance with a system of shifts approved by the inspector, or

(*b*) the work of sizing, calendering, finishing, sewing or tailoring in textile factories, or in cloth-printing works, or in bleaching or dyeing works, or

(*c*) work on urgent repairs executed in railway or tramway workshops or running sheds, or in engineering works or ship-repairing works, or

(*d*) any work mentioned in Part A or in Part B of Schedule I, or

(*e*) the factories mentioned in Part C of the said Schedule.

(*3*) Where it is proved to the satisfaction of the Local Government—

(*a*) that any class of work not specified in Part A of Schedule I is of an urgent nature or is such as in the interests of efficiency is commonly performed while the main manufacturing process of the factory is discontinued, or

(*b*) that there is in any class of factories not specified in Part B of the said Schedule any work which necessitates continuous production for technical reasons, or

(*c*) that any class of factories not specified in Part C of the said Schedule requires, by reason of the exigencies or special circumstances of the trade carried on therein, an uninterrupted working day,

the Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt,—

in case (*a*), such class of work,

in case (*b*), work of the nature described in such class of factories,

in case (*c*), such class of factories,

from the provisions of sub-section (*1*) on such conditions, if any, as it may impose.

Weekly holiday.

22. (*1*) No person shall be employed in any factory on a Sunday, unless—

(*a*) he has had, or will have, a holiday for a whole day on one of the three days immediately preceding or succeeding the Sunday, and

(*b*) the manager of the factory has previous to the Sunday or the substituted day, whichever is earlier, given notice to the inspector of his intention so to employ the said person and of the day which is to be substituted and has at the same time affixed a notice to the same effect in the place mentioned in section 36.

(*2*) Nothing in sub-section (*1*) shall apply to work on urgent repairs executed in railway or tramway workshops or running sheds or in engineering works or ship-repairing works.

(*3*) Nothing in sub-section (*1*) shall apply to any person employed on any work specified in Part A of Schedule I or in Part A of Schedule II or to any factory specified in Part B of Schedule II.

(*4*) Where it is proved to the satisfaction of the Local Government—

(*a*) that any class of work not specified in Part A of Schedule I is of an urgent nature or is such as in the interests of efficiency is commonly performed while the main manufacturing process of the factory is discontinued, or

(*b*) that there is in any class of factories not specified in Part A of Schedule II any work which necessitates continuous production for technical reasons, or

(*c*) that any class of factories not specified in Part B of Schedule II supplies the public with articles of prime necessity which must be made or supplied every day, or

(*d*) that in any class of factories the work performed, by the exigencies of the trade or by its nature cannot be carried on except at stated

seasons, or at times dependent on the irregular action of natural forces,

the Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt,—

in case (*a*), such class of work,

in case (*b*), work of the nature described in such class of factories, and

in cases (*c*) and (*d*), such class of factories,

from the provisions of sub-section (*1*), on such conditions, if any, as it may impose.

23. With respect to the employment of children in factories the following provisions shall apply :— Employment of children.

(*a*) no child shall be employed in any factory unless he is in possession of a certificate granted under section 7 or section 8 showing that he is not less than nine years of age and is fit for employment in a factory and while at work carries either the certificate itself or a token giving reference to such certificate;

(*b*) no child shall be employed in any factory before half-past five o'clock in the morning or after seven o'clock in the evening;

(*c*) no child shall be employed in any factory for more than seven hours in any one day.

24. With respect to the employment of women in factories the following provisions shall apply :— Employment of women.

(*a*) no woman shall be employed in any factory before half-past five o'clock in the morning or after seven o'clock in the evening;

(*b*) no woman shall be employed in any factory for more than eleven hours in any one day.

Prohibition of employment of woman or child in two factories on same day.

25. No person shall employ, or permit to be employed, in any factory any woman or child whom he knows, or has reason to believe, to have already been employed on the same day in any other factory.

Hours of employment of women and children to be fixed.

26. The manager of a factory shall fix specified hours for the employment of each woman and child employed in such factory, and no woman or child shall be employed except during such hours.

Exception to provisions relating to employment of women.

27. Nothing in section 24 or section 26 shall apply to any woman in any factory for ginning or pressing cotton, in which such number of women are employed as are in the opinion of the inspector sufficient to make the hours of employment of each woman not more than eleven in any one day.

CHAPTER V.

Special Provisions for Textile Factories.

Limitation of hours of work.

28. No person shall be employed in any textile factory for more than twelve hours in any one day.

Limits between which a person may be employed.

29. (*1*) No person shall beem ployed in any textile factory before half-past five o'clock in the morning or after seven o'clock in the evening.

(*2*) Nothing in sub-section (*1*) shall apply to any person while employed in accordance with a system of shifts approved by the inspector.

Exceptions from sections 28 and 29.

30. (*1*) Nothing in section 28 or section 29 shall apply to—

(*a*) the work of calendering, finishing, sewing or tailoring, or

(*b*) the work of cloth-printing, bleaching or dyeing, or

(*c*) any work specified in Part A of Schedule I.

(*2*) Where it is proved to the satisfaction of the Local Government that any work not specified in Part A of Schedule I is of an urgent nature, or is such as in the interests of efficiency is commonly performed while the main manufacturing process of the factory is discontinued, the Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt any person employed on such work from the operation of section 28 or section 29 on such conditions, if any, as it may impose.

Limit of use of machinery.

31. (*1*) The period for which mechanical power or electrical power is used in any textile factory shall not in any one day exceed twelve hours.

(*2*) Nothing in sub-section (*1*) shall apply to any mechanical power or electrical power while being solely used in aid of the work performed by any person employed in accordance with a system of shifts approved by the inspector.

(*3*) Nothing in sub-section (*1*) shall apply to any mechanical power or electrical power required in connection with any work specified in sub-section (*1*) of section 30 or in connection with any work which is exempted by the Local Government under sub-section (*2*) of the same section.

Limitation of hours of children.

32. No child shall be employed in any textile factory for more than six hours in any one day.

CHAPTER VI.

NOTICES AND REGISTERS.

Person occupying factory to give notice.

33. (*1*) Every person occupying a factory shall,—

(*a*) in the case of existing factories, within one month after the commencement of this Act, or

(*b*) in the case of a factory which starts work after the commencement of this Act, within one month after he begins to occupy the factory, send to the inspector a written notice containing:—

(*i*) the name of the factory and of the place where it is situate,

(*ii*) the address to which he desires his letters to be directed,

(*iii*) the nature of the work performed in such factory,

(*iv*) the nature and amount of the moving power therein, and

(*v*) the name of the person who shall be deemed to be the manager of the factory for the purposes of this Act:

Provided that in the case of a seasonal factory such notice shall be sent on or before the date of starting work for each season.

(*2*) If the manager of the factory is changed, the occupier shall send to the inspector, within seven days from the date on which the change is made, written notice of the change.

(*3*) During any period for which no person has been designated as manager of a factory under this section, the occupier shall himself be

deemed to be the manager of the factory for the purposes of this Act.

34. When any accident occurs in a factory causing death or bodily injury, whereby the person injured is prevented from returning to his work in the factory during the forty-eight hours next after the occurrence of the accident, the manager shall send notice of the accident to such authorities in such form and within such time as may be prescribed. Notice to be given of accident.

35. In every factory there shall be kept, in the prescribed form, a register of the children (if any) employed in such factory, and of the nature of their respective employment. Register of children

36. (*1*) There shall be affixed in some conspicuous place near the main entrance of every factory, in English and in the language of the majority of the operatives in such factory, the prescribed abstracts of this Act and of the rules made thereunder, and also a notice containing the standing orders of the factory upon the following matters, namely :— Affixing of abstract and notices.

(*a*) the time of beginning and ending work on each day ;

(*b*) the periods during which all work is discontinued under section 21 ;

(*c*) the hours of beginning and ending work for each shift (if any) ; and

(*d*) the hours of employment of women and children, respectively, if not employed in shifts.

(*2*) A copy of the said notice shall be sent to the inspector within one month of the commencement of this Act, or, in the case of a factory which starts work after the commencement

of this Act, within one month of commencing work.

(3) The said notice shall be correctly maintained and kept up to date, and intimation of any change therein shall be sent by the manager to the inspector within seven days.

(4) Nothing in this section, except in so far as it relates to affixing the prescribed abstracts of this Act and the rules made thereunder, shall apply to any seasonal factory.

CHAPTER VII.

Rules.

Power to make rules.

37. (*1*) Subject to the control of the Governor General in Council, the Local Government may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the inspection of factories;

(*b*) the manner in which inspectors are to exercise the powers conferred on them by this Act;

(*c*) the duties to be performed by certifying surgeons;

(*d*) the form of the certificate prescribed by section 7, the grant of a duplicate in the event of loss of the original certificate, and the fee, if any, to be charged for such duplicate;

(*e*) the methods, including lime-washing, painting, varnishing and washing, to be adopted

in order to secure cleanliness and freedom from effluvia;

(*f*) the proportion which the number of cubic feet of space in any room shall bear to the number of persons employed at one time therein;

(*g*) standards of ventilation, and the methods to be adopted in order to secure their observance;

(*h*) standards of latrine and urinal accommodation;

(*i*) standards of water-supply;

(*j*) the parts of the machinery to be kept fenced in accordance with section 18, sub-section (*1*), clause (*c*), and the provisions to be made for the protection from danger of persons employed in attending to the machinery or boilers;

(*k*) the form of the notice prescribed by section 34, and the time within which and the authorities to whom it shall be sent;

(*l*) the form of the register prescribed by section 35;

(*m*) the abstracts of the Act and of the rules required by section 36;

(*n*) the procedure to be followed in presenting and hearing appeals under this Act, including the appointment and remuneration of assessors; and

(*o*) the manner of service of notices and orders upon occupiers or managers of factories.

38. The Governor General in Council may from time to time make rules requiring occupiers or managers of factories to furnish such returns, occasional or periodical, as may in his opinion be necessary for the effectual carrying out of this Act. Returns.

Prior publication of rules.

39. (*1*) The power to make rules conferred by section 37, except clauses (*k*), (*l*) and (*m*) of sub-section (*2*) thereof, and by section 38 is subject to the condition of the rules being made after previous publication.

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clause s Act, 1897, as that after which a draft of rules proposed to be made under sections 37 and 38 will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

X of 1897.

Commencement of rules.

40. Rules made under this Chapter shall be published in the local official Gazette or the Gazette of India, as the case may be, and shall thereupon have effect as if enacted in this Act.

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Penalties.

41. If in any factory—

(*a*) any person is employed or allowed to work contrary to any of the provisions of this Act ;

(*b*) any of the provisions of section 9 are not complied with ;

(*c*) latrine or urinal accommodation in accordance with the provisions of section 13 is not provided ;

(*d*) a supply of water for the persons employed is not maintained in accordance with the provisions of section 14 ;

(*e*) any door is constructed in contravention of section 15 ;

(*f*) any of the provisions of section 18, sub-sections (*1*), (*3*) and (*4*), regarding fencing and the protection from danger of persons employed in attending to the machinery or boilers are not complied with ;

(*g*) any order of an inspector under section 10, section 11, section 12, section 16 or section 18 is not complied with ;

(*h*) the register prescribed by section 35 is not kept up to date ;

(*i*) any of the provisions of section 36 are not complied with ;

(*j*) any notice or return required by this Act or by rules made thereunder to be furnished is not furnished ; the occupier and manager shall be jointly and severally liable to a fine which may extend to two hundred rupees :

Provided that in cases where an appeal is allowed by section 50 no prosecution under clause (*g*) of this section shall be instituted until either the time prescribed by section 50 for the presentation of an appeal has expired or such appeal, if made, has been determined.

Exemption of occupier or managers from liability in certain cases.

42. (*1*) Where the occupier or manager of a factory is charged with an offence against this Act, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge ; and if, after the commission of the offence has been proved, the occupier or manager of the factory proves to the satisfaction of the Court—

(*a*) that he has used due diligence to enforce the execution of this Act, and

(*b*) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like fine as if he were the occupier or manager, and the occupier or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the inspector at any time prior to the institution of the proceedings—

(*a*) that the occupier or manager of the factory has used all due diligence to enforce the execution of this Act, and

(*b*) by what person the offence has been committed, and

(*c*) that it has been committed without the knowledge, consent or connivance of the occupier or manager, and in contravention of his orders,'

the inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or manager of the factory, and such person shall be liable to the like fine as if he were the occupier or manager.

Penalties for certain offences.

43. Any person who—

(*a*) wilfully obstructs an inspector in the exercise of any power under section 5, or fails to produce on demand by an inspector any registers or other documents kept in pursuance of this Act or the rules made thereunder, or conceals or prevents or attempts to prevent any

person employed in a factory from appearing before or being examined by an inspector;

(*b*) smokes, or uses a naked light, or causes or permits any such light to be used, in the immediate vicinity of any inflammable material in contravention of section 17; or

(*c*) does or omits to do any other act prohibited or prescribed by this Act or any order or rule made thereunder;

shall be punishable with fine which may extend to two hundred rupees.

Using false certificate.

44. Any person who knowingly uses or attempts to use, as a certificate granted to himself under section 7 or section 8, a certificate granted to another person under either of those sections, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with fine which may extend to twenty rupees.

Limit to penalty in case of repetition of offence.

45. A person shall not be liable in respect of a repetition of the same kind of offence from day to day to any larger amount of fines than the highest fine fixed by this Act for the offence, except—

(*a*) where the repetition of the offence occurs after a prosecution has been instituted in respect of the original offence, or

(*b*) where the offence is one of employing or allowing to be employed two or more persons contrary to the provisions of this Act.

Presumption as to employment.

46. If a child over the age of six years is found inside any room or part of a factory in which room or part children are employed and in which any manufacturing process or work

incidental to any manufacturing process is being carried on, he shall, until the contrary is proved, be deemed to be employed in the factory.

Evidence as to age.

47. (*1*) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, it shall be on the accused to prove that such person is not under or over such age.

(*2*) A declaration in writing by a certifying surgeon that he has personally examined a person employed in a factory and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of that person.

Cognizance of offences.

48. (*1*) No prosecution under this Act, except a prosecution under section 43, clause (*b*), shall be instituted except by or with the previous sanction of the inspector.

(*2*) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence against this Act or any rule or order thereunder, other than an offence against section 43, clause (*b*).

Limitation of prosecutions.

49. No court shall take cognizance of any offence against this Act or any rule or order thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

CHAPTER IX.

Supplemental Provisions.

50. (*1*) Any person on whom an order under section 10, section 11, section 12, section 16 or section 18 has been served may, within fourteen days from the date of service of the order, appeal against such order to the Local Government or to such authority as it may appoint in this behalf, who may confirm, modify or reverse any such order. Appeals.

(*2*) Where an inspector refuses to approve a system of shifts, he shall, if required by the manager of the factory, record his order of refusal with the reasons therefor, and the manager of the factory may, within fourteen days from the date of such order, appeal against it to the Local Government or to such authority as it may appoint in this behalf, who may confirm, modify or reverse any such order.

(*3*) In the case of any appeal made under sub-section (*1*) the appellate authority may, and if so requested by the appellant in the petition of appeal shall, hear the appeal with the aid of two assessors, one of whom shall be appointed by the said authority and the other by such body representing the interest of the industry concerned as the Local Government may in this behalf prescribe:

Provided that if no assessor is appointed by such body within the prescribed period, or if the assessor so appointed fails to attend at the time and place fixed for the hearing of the appeal, the said authority may proceed to hear the

appeal without the aid of such assessor, or, if it thinks fit, without the aid of any assessor.

Special provision regarding computation of time.

51. (*1*) In respect of any area in which the hours of the day are not ordinarily reckoned according to local mean time, the times and hours referred to in section 2, sub-section (*8*), section 26 and section 36 shall be reckoned according to the standard of time ordinarily observed in such area.

(*2*) The Local Government may, by notification in the local official Gazette, direct that, for any specified area and during any specified months, for the morning and evening hours mentioned in section 23, clause (*b*), section 24, clause (*a*), and section 29, such one of the following sets of morning and evening hours as it deems suitable, reckoned according to the standard of time ordinarily observed in such area, shall be substituted, namely :

five o'clock in the morning and half past six o'clock in the evening ;

six o'clock in the morning and half past seven o'clock in the evening ;

half past six o'clock in the morning and eight o'clock in the evening ;

seven o'clock in the morning and half past eight o'clock in the evening.

Computation of hours of employment.

52. In computing the hours referred to in setion 23, clause (*c*), section 24, clause (*b*), section 28 and section 32, any interval by which work is interrupted for half an hour or more shall be excluded.

Power to declare parts of a factory to be separate factories.

53. The Local Government may, subject to the control of the Governor General in Council, by special order in writing, direct, with respect

to any factory or class of factories, that different branches or departments of work carried on in the same factory shall for all or any of the purposes of this Act be treated as if they were separate factories.

54. This Act shall apply to factories belonging to the Crown. Application to Crown factories.

55. Notwithstanding anything in section 22, sub-section (*1*), any person may in the province of Burma be employed on Sunday for any time not exceeding four hours in cleaning the machinery and apparatus in a factory, provided that he has not worked in the factory later than two o'clock in the afternoon on the previous day. Special provision for Burma for employment on Sunday.

56. In case of any public emergency, the Local Government may, by an order in writing, exempt any factory from this Act to such extent and during such period as it thinks fit. Power to exempt from Act.

57. The Governor General in Council may, if he thinks fit, exercise any power which is by this Act conferred upon the Local Government. Exercise of powe by Governor-General in Council.

58. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act. Protection to persons acting under Act.

59. The Indian Factories Act, 1881, and the Indian Factories Act, 1891, are hereby repealed: XV of 1881. XI of 1891. Repeal and savings.

Provided that all appointments made and all certificates given under the said Acts shall be deemed to have been made or given under this Act.

SCHEDULE I.

(*See Sections 21, 22, 30.*)

PART A.

[*See Sections 21* (*2*), (*3*) ; *22* (*3*) ; *30.*]

Work of an urgent nature or such as in the interest of efficiency is commonly performed while the main manufacturing process of the factory is discontinued.

(*a*) Work by the supervising staff, clerks, watchmen or messengers ;

(*b*) work in the mechanic shop, the smithy or foundry, the boiler-house, the engine-room or power-house, or in connection with the mill-gearing, the electric driving or lighting apparatus, mechanical or electrical lifts, or the steam or water pipes or pumps ;

(*c*) work on the cleaning of walls, ceilings or other portions of factory buildings, tanks, wells, humidifying or ventilating apparatus, tunnels, blow-room flues or line-shaft alleys or of galleries in ginning factories ;

(*d*) work by persons engaged in oiling, examining or repairing or in supervising or aiding in the oiling, examination or repair of any machinery or other thing whatsoever which is necessary for the carrying on of the work in a factory.

Explanation.—Periodical cleaning is not included in the terms "examining" or "repairing" ;

(*e*) work on the processes of packing, bundling or baling of finished articles or the receiving or despatching of goods.

PART B.

[*See Section 21* (*2*), (*3*).]

Work necessitating continuous production for technical reasons in the following factories, namely :—

Tanneries.

Sugar refineries.

Breweries.

Distilleries.

Oil refineries.

Oil mills.

Cement works.

Cloth printing works.

Bleaching and dyeing works.

Carbonic acid gas works.

Chemical works.

Glass works.

Paper mills.

Shellac factories.

Potteries.

Blast furnaces, ore smelting works, or works for the manufacture of iron or steel or other metals.

PART C.

[*See Section 21 (2), (3).*]

Factories which by reason of the exigencies or the special circumstances of the trade carried on therein require an uninterrupted working day, namely :—

Flour mills.

Rice mills.

Letter-press printing works.

Dairies.

Bakeries.

Ice factories.

The mints.

Gas works.

Air-compressor stations.

Water works or water-supply pumping stations.

SCHEDULE II.

(*See Section 22.*)

PART A.

[*See Section 22 (3), (4).*]

Work necessitating continuous production for technical reasons in the following factories, namely :—

Tanneries.

Sugar refineries.

Breweries.

Distilleries.

Oil refineries.

Cement works.

Carbonic acid gas works.

Chemical works.

Glass works.

Shellac factories.

Potteries.

Blast furnaces, ore smelting works or works for the manufacture of iron or steel or other metals.

PART B.

[*See Section* 22 (*3*), (*4*).]

Factories which supply the public with articles of prime necessity which must be made or supplied every day, namely :—

Ice factories.

Dairies.

Bakeries.

Gas works.

Air-compressor stations.

Water works or water-supply pumping stations.